RAILROAD LABOR DISPUTE

67061580

HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H. J. Res. 559

TO PROVIDE FOR THE SETTLEMENT OF THE LABOR DISPUTE BETWEEN CERTAIN CARRIERS BY RAILROAD AND CERTAIN OF THEIR EMPLOYEES

MAY 9, 10, 11, 16, 17, 18, 23, 24, 25, 31; JUNE 6, 7, 1967

Serial No. 90–7

Printed for the use of the
Committee on Interstate and Foreign Commerce

U.S. GOVERNMENT PRINTING OFFICE
79-205 WASHINGTON : 1967

218322

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RAILROAD LABOR DISPUTE

TUESDAY, MAY 9, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The committee has met this morning to take up House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

I would like to make a statement before we start, as an explanation of some of the alternatives that might be considered.

A more or less familiar ditty runs like this, I believe:

> As I was going up the stair
> I met a man who wasn't there.
> He wasn't there again today.
> Oh, how I wish he'd go away.

Gentlemen, he has not gone away. He's back again, and in my opinion he will be hanging around until this threatened railroad strike is settled.

The matter has been forced upon the Congress, and initially upon this committee, much as we dislike it. There is no point in closing our eyes to the fact. If we have the moral and political courage which I think Congress has, we will find some practical solution for this problem.

A week ago the House, at the request of this committee, and with some reluctance, agreed to a second extension of the "cooling off" period. The period ends June 19. At the time, we promised, in all sincerity, that we would consider some proposal which would dispose of the dispute in one way or another. I doubt that the House would welcome a request for a further extension of time during which the matter would hang in the balance, and the disputing parties, as well as the general public, might be even less tolerant.

It is inconceivable that the problem should hang like a pall over us all summer, influencing our thinking about other matters which need careful attention.

I feel that there is good reason to believe that this second period of delay has served to divert attention away from the differences between the labor unions and management, and focus it on proposals as to what Congress should or should not do.

As the argument over this gets hotter and hotter, it will be increasingly difficult to do anything. If we fail to make some progress

shortly, the whole country will be taking sides and digging in on positions which they will believe must be held at all costs.

So whatever we do or do not do, I trust that we will keep in mind that our job is to try to settle the dispute between the railroad unions and management. Any action that will accomplish that purpose will be approved by the public, I am confident. Arguments over "face-saving" will get little applause.

We are opening these hearings by considering a definite proposal, sponsored by the administration. I assume, however, that alternatives may evolve from the discussions. In fact, I hope, personally, that they will evolve, and that all possible courses of action will be given due consideration.

We shall begin by hearing witnesses from the administration, and after that from representatives of the unions and of management. Following these, we may want to ask responsible elements of the general public to give us the benefit of their counsel.

It may be well, therefore, to review the suggestions that have been made for congressional action in case the parties to the dispute do not reach an agreement before the deadline. They are:

1. That the Government seize the railroads and operate them until the disputing parties reach an agreement.

It has been taken for granted that this option would leave existing conditions exactly as they are—wages, applications for mergers, and all the rest. Such a situation could be dragged out indefinitely, thereby denying justice to either labor or management in some details.

I might suggest that we need not necessarily confine ourselves to such narrow limits in case we finally adopt this expedient. Existing conditions could be modified where such is deemed right and just. For instance, pay rates for shop labor could be made to conform to local practices.

2. That some third party, a refereeing board, draw up a settlement which would be binding upon both parties. The word "binding" is an attempted euphemism for the word "compulsory." If the thing were binding, it would be compulsory. We might then be faced with writing some legislation that would compel management to run trains and compel workmen to operate them.

A third alternative seems to be emerging from the discussion over the situation. It is, and I want to state it clearly, that the Congress do nothing at all.

In case we adopt this alternative, I feel that we should do it positively, and not by default. It would be possible for us to go before the House and say that, in our opinion, it is not expedient nor justifiable for the Congress to interfere in the dispute in any way. In such a case, the railroads and the workers might be spurred to action on their own; or the strike might occur as threatened.

Objection to a strike is based on the assumption that it would involve disastrous consequences to the Nation, especially, among other things, to the war effort and to public health.

In connection with this assumption, I quote from a telegram sent Defense Secretary McNamara by the heads of two of the disputing unions:

In view of scheduled national strike by railroad shopcraft unions at 12:01 a.m., May 3, we stand ready to meet with you at any time to arrange for con-

tinued rail transport of all shipments necessary to our Nation's military effort and the public health. This offer is made on behalf of shopcraft unions and other railroad unions. Cooperation on part of railroad management would also be needed.

It is not clear as to exactly what items this pledge would apply, but assuming again that the unions could and would redeem the pledge, and that railroad management would, in fact, cooperate, it might be difficult to establish the contention that a national emergency did exist and thereby warrant any Government interference.

These alternatives may not exhaust our resources in this affair. I make this somewhat lengthly explanation partly for the purpose of clarifying my own thinking, and partly to free my mind from any bias regarding proposals which have been made or may be made, and which this committee can accept as a right and reasonable way of solving our problem.

(The text of H.J. Res. 559, and departmental report thereon, follow:)

[H.J. Res. 559, 90th Cong., 1st sess.]

JOINT RESOLUTION

To provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees

Whereas the labor dispute between the carriers represented by the National Railway Labor Conference and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employees' Department, AFL-CIO, labor organizations, threatens essential transportation services of the Nation; and

Whereas Emergency Board Numbered 169 (created by Executive Order 11324, January 28, 1967, 32 F.R. 1075) has made its report; and

Whereas under procedures for resolving such dispute provided for in the Railway Labor Act as extended and implemented by Public Law 90–10 of April 12, 1967, as amended, the parties have not succeeded completely in resolving all of their differences through the processes of free collective bargaining; and

Whereas related disputes have been settled by private collective bargaining between the carriers and other organizations representing approximately three-quarters of their employees, so that the present dispute represents a barrier to the completion of this round of bargaining in this industry; and

Whereas a Special Mediation Panel appointed by the President upon enactment of Public Law 90–10 proposed settlement terms to assist the parties in implementation of the collective bargaining envisaged in the recommendations of Emergency Board Numbered 169; and

Whereas it is desirable to provide procedures for the orderly culmination of this collective-bargaining process; and

Whereas the national interest, including the national health and defense, requires that transportation services essential to interstate commerce be maintained; and

Whereas the Congress finds that an emergency measure is essential to security and continuity of transportation services by such carriers: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Special Board for the purpose of assisting the parties in the completion of their collective bargaining and the resolution of the remaining issues in dispute. The Special Board shall consist of five members to be named by the President. The National Mediation Board is authorized and directed (1) to compensate the members of the Board at a rate not in excess of $100 for each day together with necessary travel and subsistence expenses, and (2) to provide such services and facilities as may be necessary and appropriate in carrying out the purposes of this resolution. For the purpose of any hearing conducted by the Special Board, it shall have the authority conferred by the provisions of sections 9 and 10 (relating

to the attendance and examination of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (15 U.S.C. 49, 50).

SEC. 2. The Special Board shall attempt by mediation to bring about a resolution of this dispute and thereby to complete the collective bargaining process.

SEC. 3. If agreement has not been reached within thirty days after the enactment of this resolution, the Special Board shall hold hearings on the proposal made by the Special Mediation Panel, in its report to the President of April 22, 1967, in implementation of the collective bargaining contemplated in the recommendation of Emergency Board Numbered 169, to determine whether the proposal (1) is in the public interest, (2) is a fair and equitable extension of the collective bargaining in this case, (3) protects the collective bargaining process, and (4) fulfills the purposes of the Railway Labor Act. At such hearings the parties shall be accorded a full opportunity to present their positions concerning the proposal of the Special Mediation Panel.

SEC. 4. The Special Board shall make its determination by vote of the majority of the members on or before the sixtieth day after the enactment of this resolution, and shall incorporate the proposal of the Special Mediation Panel with such modifications, if any, as the Board finds to be necessary to (1) be in the public interest, (2) achieve a fair and equitable extension of the collective bargaining in this case, (3) protect the collective bargaining process, and (4) fulfill the purposes of the Railway Labor Act. The determination shall be promptly transmitted by the Board to the President and to the Congress.

SEC. 5. If agreement has not been reached by the parties upon the expiration of the period specified in section 6, the determination of the Special Board shall take effect and shall continue in effect until the parties reach agreement or, if agreement is not reached, until such time, not to exceed two years from January 1, 1967, as the Board shall determine to be appropriate. The Board's determination shall have the same effect (including the preclusion of resort to either strike or lockout) as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 6. The provisions of the final paragraph of Section 10 of the Railway Labor Act (45 U.S.C. 160), as heretofore extended by law, shall be hereby extended until 10:01 o'clock antemeridian of the ninety-first day after enactment of this resolution with respect to the dispute referred to in Executive Order 11324, January 28, 1967.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 22, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.J. Res. 559, To provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees. Our views are those which were given in the testimony of Secretary Boyd in hearings before your Committee on this subject on May 10, 1967.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

The CHAIRMAN. This morning our first witness is the Honorable W. Willard Wirtz, Secretary of the Department of Labor. He has with him some of his associates and some other distinguished public men of the Nation.

Mr. Wirtz, would you identify the gentlemen who are with you so that the committee might know each one of them and their part in this?

STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR; ACCOMPANIED BY JAMES J. REYNOLDS, UNDER SECRETARY OF LABOR; FRANCIS A. O'NEILL, JR., CHAIRMAN, NATIONAL MEDIATION BOARD; JUDGE CHARLES FAHY, CHAIRMAN, SPECIAL MEDIATION PANEL; AND DAVID GINSBURG, CHAIRMAN, EMERGENCY BOARD NO. 169

Secretary WIRTZ. Thank you, Mr. Chairman and members of the committee.

It is not only with a very real pleasure but significance that I introduce the other gentlemen at the table. I am frank to say that under normal circumstances it seems to me that the appearance of the witnesses from the administration before a committee of this kind may have a very routine quality about it. When I appear alone, it is with that feeling.

In contrast, this morning it seems to me a matter of great importance to the committee, to the Congress, and to the Nation that there are here these four men who have worked not only in connection with this case, but for most of their lifetimes in connection with collective bargaining because, Mr. Chairman, the issues before the country, the committee, and the Congress, today, in this case, is the issue of collective bargaining. That, and not any differences between the parties, is the issue we face.

So it is with a feeling of great importance on this occasion that I introduce these gentlemen. You know from previous appearances the Under Secretary of Labor, Mr. James J. Reynolds, who has not only worked long in this case, but long on all the other problems of this kind which have faced the Nation during the last 6 years, and who, before that, includes in his experience his membership on the National Labor Relations Board.

To his left is Chairman Francis A. O'Neill, Jr., who has for 20 years been a member of the National Mediation Board, handling disputes on the railroads and on the airlines, a man senior in this particular service in this country, six times Chairman of that Board, currently Chairman of that Board, and that chairmanship is on a rotating basis.

Then on my right is Judge Charles Fahy, who is the Chairman of the Special Mediation Panel appointed by the President after the 20-day extension, who met and worked with the parties with his associates in an attempt to bring this matter to its conclusion, but who, beyond that, Mr. Chairman and members of the committee, brings this special distinction and this special weight of experience to this proceeding: Judge Fahy was the first General Counsel of the National Labor Relations Board from 1935 to 1940, when the question before the country was the establishment by law of free, collective bargaining, the establishment under the requirement of the Wagner Act and the National Labor Relations Act, and following that, after several other things, including the role as Solicitor General of the United States, a judge for the Court of Appeals for the District of Columbia, from which post he retired in the past few weeks, bringing, therefore, to this matter, all of that wealth of experience.

Again, David Ginsburg, an attorney in the District of Columbia whose service to this Government and to this country goes back and includes experience as General Counsel of the OPA during that difficult war period, his advice to Presidents, to congressional committees, his service to the country and particularly in this case his chairmanship of the Emergency Board No. 169 set up under the National Railway Act.

I don't mean to overmake the point, Mr. Chairman. Here are five men, including myself, who worked very hard with this case and who, beyond that, testify here from the deepest conviction possible in the validity and fundamental importance of the concept of free, collective bargaining.

It is from that standpoint that we speak, and with that conviction that we will respond to the questions of the committee.

I have filed with the committee, Mr. Chairman, a statement of moderate length which, if it meets with your convenience and pleasure, I will simply ask to be made part of the record and which I will summarize very briefly because this is a matter comparatively well known to the country and to the committee. My going into it in detail at this point will probably only burden the record.

I will be guided by your judgment as to whether you would prefer to have it read or briefly summarized.

The CHAIRMAN. I believe the committee would prefer that you do file it for the record and give us the pertinent points so that the committee will know, even if it is a burden to those who think they know. I think it should be brought out for the record.

(The statement referred to follows:)

STATEMENT OF W. WILLARD WIRTZ, SECRETARY OF LABOR

Mr. Chairman, and Members of the Committee: I testify, on behalf of the Administration, in support of H.J. Res. 559.

This testimony will be brief, perhaps even to the point of seeming out of proportion to the significance of the subject.

The members of the Committee have been supplied, however, with a complete record of the events leading up to the introduction of H.J. Res. 559, including all the relevant documents. The President's May 4 Message to the Congress proposing this Joint Resolution, sets out fully the reasons for it.

The remaining function is largely to summarize what is involved here, as a basis for the questions I know the Committee will have.

I

First, as to the nature and history of the dispute which remains unresolved:

The dispute involves virtually all of the Nation's railroad carriers and the railroad shopcraft employees represented by six unions, briefly referred to as the Machinists, the Boilermakers, the Sheet Metal Workers, the Brotherhood of Electrical Workers, the Railway Carmen, and the Firemen and Oilers, bargaining through the Railway Employees Department, AFL–CIO.

The dispute developed as part of the "1967 round" of wage reopenings on the railroads. All railroads and all 20 or so organizations representing railroad employees were involved. The parties first sought settlement of their differences through private collective bargaining, at the local level and later at the national level. This was during the summer and fall of 1966.

Subsequently the National Mediation Board worked with the parties, attempting to arrive at settlements which would be acceptable to all concerned.

The main issue was a general wage increase—with various additional issues in each case.

Agreements were reached between the carriers and eleven labor organizations representing about three-quarters of all railroad employees.

Agreement was not reached, however, with the shopcraft unions. This case went through the same collective bargaining and mediation processes the other cases had, and then to an Emergency Board set up under the Railway Labor Act. When, agreement still failing, the statutory status quo period was about to expire, the Congress extended that period for 20 days.

The President then set up a Special Mediation Panel of distinguished citizens to work with the parties. After a series of bargaining and mediation sessions failed to produce full agreement, the Special Panel made a proposal for settlement drawn from the Panel's assessment of the direction of the bargaining which had taken place and of the course it could be expected to follow given the time which circumstances were denying it. Both parties declined to accept the Mediation Panel's proposal.

On May 1, acting on the President's recommendation, the Congress again extended the statutory status quo period, this time to June 19, 1967.

On May 4, the President transmitted to the Congress the proposal embodied in H.J. Res. 559. I refer again to the Message accompanying this transmittal.

II

Second, in summary of the provisions of H.J. Res. 559:

The Resolution provides for the President's appointment of a 5-member Special Board to "attempt by mediation to bring about a resolution of this dispute and thereby to complete the collective bargaining process."

If there is no agreement after the first 30 days of mediation, the Special Board will set a hearing designed specifically to bring these months of bargaining and mediation to a head.

* The central discussion point at this hearing will be the proposal made to the parties by the Special Mediation Panel on April 21.

* The parties will be asked to express their views as to whether a settlement based on that Panel proposal would "(1) be in the public interest, (2) achieve a fair and equitable extension of the collective bargaining in this case, (3) protect the collective bargaining process, and (4) fulfill the purposes of the Railway Labor Act."

The Special Board's mediation efforts will continue after this hearing is held, and will take account of the parties' representations at the hearing.

If, after another 30 days, there is still no agreement, the Board will issue its "determination" regarding any remaining points of disagreement. This "determination" will be based on the Mediation Panel's proposal, with such modifications as the Board finds appropriate in the light of the hearing and in observance of the four criteria set out in H.J. Res. 559.

Even after that, the Board will continue its efforts at mediation.

If these efforts continue to be unavailing, the Board's determination will go into effect at the end of 90 days. The Board will include a time period—not to exceed two years from January 1, 1967—during which its determination will remain effective.

But the terms of the Board determination, including the time period, will be subject to any subsequent agreement reached by the parties.

During the period of the Board's handling of this matter, and during the period after that specified in the Board's determination or by the parties' agreement, there may be no strike or lockout.

III

Finally, a few general comments about this situation and about H.J. Res. 559.

Everybody—including the parties—recognizes that there can't be a nation-wide railroad shutdown, at least under today's circumstances. It would cripple the country before either party even felt a scratch. The strike and the lockout don't play their normal function in collective bargaining under these circumstances; such action would not be against the other party but against the public.

The necessity of some alternative method of settlement is therefore accepted. The only issue is what it should be.

There is a clear consciousness, at the same time, that this is the third time in four years that an individual labor dispute has required the attention of the Congress.

Nor does the fact that these three cases are only that many out of almost 100,000 a year that are settled satisfactorily by collective bargaining lessen the

concern that if the essential element of freedom in bargaining is compromised here, it will be that much easier to compromise it again.

The issue in this case is therefore now collective bargaining itself—much more than it is any issues of dollars and cents which separate the carriers and the employee organizations. The issue, more directly, is how to achieve a settlement of this dispute without a railroad shutdown and at the same time not weaken the collective bargaining process.

H.J. Res. 559 is designed to achieve this purpose.

It has three essential characteristics, all developed to assure the fullest play, even in these circumstances, of the forces of collective bargaining.

First, it affords every conceivable opportunity, with every conceivable form of assistance, for the parties to complete their settlement by their own agreement.

It will become effective only after the Congress has twice before gone to the unprecedented length of acting formally to extend the time period for the parties to reach agreement.

H.J. Res. 559 is itself a *last clear chance* procedure—providing three more steps, and a further time period, for the parties to *use* collective bargaining.

Second, H.J. Res. 559 provides that if a determination must eventually be made here by someone other than the parties, that determination will have to be drawn *from the record of the parties' own bargaining in this case*, and that it will have to be shaped to take meaningful account of the Congress' stated purpose of preserving the collective bargaining process itself.

H.J. Res. 559 limits sharply and strictly the exercise of judgment by the Board it establishes, in case a "determination" becomes necessary. The Board's consideration must proceed from the settlement proposal made by the Special Mediation Panel, which was itself drawn directly from the Emergency Board recommendation and, like that recommendation, *from the record of the parties' own collective bargaining*—bargaining that had drawn them within what was, in practical fact, near reach of each other.

The Resolution *specifies* that such determination be an *extension of the bargaining* which has taken place here; and it weaves the determination process—if resort to it becomes necessary—so closely in with the mediation process that the two will have a clear and significant inter-relationship.

Third, H.J. Res. 559 provides that even if the Board has to make a "determination" it will be subject to the parties' own subsequent agreement. If they *do* agree, that agreement is substituted for the Board's determination—which is, at least in form, only an interim determination, pending agreement. This may or may not mean very much in practical terms (depending on the relationship of the "determination" to the position of one party or the other), but retaining the principle is important.

The settlement which is eventually arrived at in this case will, in every real sense, be made by the parties.

Hopefully, and with reasonable expectation that this will happen, there will be agreement during the 90-day period. If there isn't, the Board's determination will necessarily—and by statutory instruction—include every possible element of the parties' almost, but not quite, complete reconciliation of their differences.

There is *no* "right" answer to how to provide finality of settlement if bargaining parties can't reach agreement and the public can't pay the price of a strike or lockout.

The case for H.J. Res. 559 is only—and no more—that it comes closer to being "right"—in using the collective bargaining in this case, and not weakening it as an essential process, than any other answer would.

It serves the two-fold purpose:

"To preserve the institution of free collective bargaining in providing the maximum possible latitude to the parties to reach their own agreement with a minimum of outside interference.

"To assure to the Nation that at this critical period in our history we are not faced with the spectre of a shutdown of the entire railroad industry."

These purposes are laudable and merit favorable consideration by the Congress.

I respectfully urge, in conclusion, the consideration of this proposal on the basis of whether it makes sense—not what label or epithet is tied to it.

It involves, unquestionably, the element of final and effective determination by persons other than the parties if they are unable to complete their own agreement.

So does "compulsory arbitration."

So does "seizure."

H.J. Res. 559 is neither of those, and is designed to *prevent* such infinitely broader and more extreme intrusions on free collective bargaining. Its relation to "compulsory arbitration" is the relation that a vaccination for smallpox, which contains a minute element of the virus, has to the disease itself; and that a tetanus shot has to lockjaw.

The War Labor Disputes Act, during World War II, was "compulsory arbitration" and "seizure." It covered every part of every labor dispute in the country; gave the War Labor Board the unfettered right to impose on the parties whatever settlement the Board members might devise; was a substitute for bargaining instead of a process for completing it; and provided for Government seizure as an ultimate sanction.

Australia has compulsory arbitration—established by a law which provides in advance of any dispute arising that all "industrial disputes" as to all "industrial matters" shall be arbitrated; and then goes on to define industrial matters as "all matters pertaining to the relations of employers and employees and, without limiting the generalities of the foregoing, to include—

(*a*) all matters or things affecting or relating to work done or to be done;

(*b*) the privileges, rights and duties of employers and employees;

(*c*) the wages, allowances and remuneration of persons employed or to be employed;

(*d*) the piece-work, contract or other reward paid or to be paid in respect of employment;

(*e*) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(*f*) the question whether monetary allowances shall be made by employers in respect of any time when an employee is not actually working;

(*g*) the hours of employment, sex, age, qualifications and status of employees;

(*h*) the mode, terms and conditions of employment;

(*i*) the employment of children or young persons, or of any persons or class of persons;

(*j*) the preferential employment or the non-employment of any particular person or class of persons or of persons being or not being members of an organization;

(*k*) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;

(*l*) any custom or usage in an industry, whether general or in a particular locality;

(*m*) any shop, factory or industry dispute, including any matter which may be a contributory cause of such a dispute;

(*n*) any question arising between two or more organizations or within an organization as to the rights, status or functions of the members of those organizations or of that organization or otherwise, in relation to the employment of those members;

(*o*) any claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return or profit or value to their employer;

(*p*) any question as to the demarcation of durations of employees, whether as between employers and employees or between members of different organizations; and

(*q*) the provision of first-aid equipment, medical attendance, ambulance facilities, rest rooms, sanitary and washing facilities, canteens, cafeteria, dining rooms and other amenities for employees;

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole . . ."

That is compulsory arbitration.

It is exactly what H.J. Res. 559 is designed to *prevent* happening in this country.

Public Law 88–108, adopted to meet the railroad crisis in 1963, turned out in operation to be "compulsory arbitration." The Congress tried, there, to limit the "arbitration board" by providing that—

"It shall incorporate in (its) decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement . . . (and) to the narrowing

of the areas of disagreement which has been accomplished in bargaining and mediation."

But it developed that the issues before that "arbitration board" were of such a nature—involving basic manning principles—that the Board found it necessary to establish its own framework of decision.

H.J. Res. 559 has been designed specifically to counteract the effects of P.L. 88–108 and to require that the answers in the present dispute be taken from the settlement course the *parties* have laid out—and come so near to completing.

Any sense of the practicalities of the kind of debate H.J. Res. 559 will be properly subject to means full realization of the inevitability of its being identified in whatever manner best serves the argument being made. I make only the point that it has been drawn from a conviction that "compulsory arbitration" and "seizure" are *wrong*; that it is not either of these; and that it represents the fullest possible degree of preserving the force of collective bargaining in this situation and the smallest possible degree of interference with that force. If there are means of serving that purpose more fully, provision for them in this Resolution would be clearly within its intention.

There are present with me here: Under Secretary of Labor, James J. Reynolds; Francis A. O'Neill, Jr., Chairman of the National Mediation Board; David Ginsburg, Chairman of the Emergency Board which acted in this case under the Railway Labor Act; Judge Charles Fahy, Chairman of the Special Mediation Panel.

These men, with their associates, have labored long and diligently and with the strength of lifetimes of experience, to make collective bargaining work in this case. They are in a position to tell you how far collective bargaining has already made its force felt here so that it will, under H.J. Res. 559, be the architect of the final settlement.

All five of us, Mr. Chairman and Members of the Committee, believe deeply in the value to democracy of free collective bargaining. It is in that belief that we support this Resolution, and will answer your questions about it.

Secretary WIRTZ. I wish to also call the committee's attention to a notebook which has been placed before each member in which we have set out the full record of this case, including all of the relevant documents, so that you will have all of that before you.

Proceeding on that basis of understanding, Mr. Chairman, I will mention only these things:

We know, all of us, that the dispute involves all of the railroads, and they are the class I railroads in the country and the six shopcraft unions which represent organizations which represent about 137,000 of the railroad employees.

We know the history of their dispute, which stretches over a good part of a year, which includes active private, collective bargaining, very active mediation on the part of the National Mediation Board, the services then—under the National Railway Act—of Emergency Board No. 169, which made recommendations to the parties, and then, after the first extension by the Congress of the status quo period, the services of the special mediation panel.

We know, and it is very pertinent to the history of House Joint Resolution 559, that on April 21 the mediation panel under Judge Fahy's chairmanship and with the other members being Dr. George W. Taylor and Dr. John T. Dunlop, made a recommendation to the parties which is referred to hereafter as the recommendation of April 21.

Against that too brief background or brief summary of the background, I say only this about House Joint Resolution 559: It has been suggested that it is a complicated procedure. Gentlemen, it is, because it reflects every effort to exhaust every possibility of settlement along the lines that you, Mr. Chairman, have referred to in your opening statement, because we share the conviction that there

should be no necessity of formal action in this case, and that we must exhaust every possibility of bargaining which there is.

So this recommendation in House Joint Resolution 559 is built around the central proposition that there must be every opportunity given the free and full play of collective bargaining.

This resolution would set up a five-man board. That Board would meet with the parties, attempt to settle this matter by mediation, and it would, in the first 30 days, if not successful, as far as mediation is concerned, hold at that point a hearing.

The central point of that hearing would be that panel recommendation which was made by Judge Fahy's panel. The parties would express their views with respect to the recommendations of that panel.

After that hearing, the mediation would proceed, hopefully helped by the statements of the parties at that hearing.

If, at the end of 60 days from the start of the resolution, the resolution period, there was still no agreement, this Board set up by House Joint Resolution 559 would then issue its determinations, called "determinations" in the resolution. It is provided, and significantly, in House Joint Resolution 559, that those determinations must follow very closely the criteria established there.

They would take the panel proposal as their starting point. The Board would then determine what, if any, modifications needed to be made which, in the language of the resolution, first would be in the public interest; second, would achieve a fair and equitable extension of the collective bargaining in this case; third, would protect the collective bargaining process; fourth, would fulfill the purposes of the Railway Labor Act.

That determination being made on the 60th day, there would then be the continuing effort by this five-man Board to settle this case still by mediation and by agreement. If at the end of the 90th day there was still no agreement, the Board's determinations would go into effect for such period as the Board might fix, but not more than 2 years from January 1, 1967, or until the parties themselves made their own agreement.

During this period, the Board's handling of this matter, the status quo period under the Railway Labor Act would be extended so there would be no strike or lockout permitted during that period, and upon the issuance of the determination or upon the making of the parties' agreement there would be a continuation of that no-strike and no-lockout status by virtue of the provisions in the Railway Labor Act for the continuation of the status quo. In short, there would not be a strike or a lockout during the period covered either by the determination or the parties' agreement.

Now, these few comments about the matter: I thought, Mr. Chairman, until your statement, that it would be fair to say that everybody, including the parties, recognized that there cannot be a nationwide railroad shutdown, at least under today's circumstances. That would still be my personal view, but I would modify it out of respect to the possibility which you have suggested.

I would feel, for myself, that no combination of considerations would justify exposing this country at this point to a railroad shutdown. It would cripple the country before it even scratched either party.

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When that is true, a strike or a lockout does not play its normal function in collective bargaining. It would not be against the other party. It would be against the country.

So I have thought of this as a situation in which there is no question about the necessity of our doing something if they don't, but, rather, a question of what to do. It has seemed to me that the one thing that we must do in this case is find a basis for reconciling two essential, basic, public interests.

One is maintaining our rail transport and the other is maintaining the institution of free, collective bargaining.

House Joint Resolution 559 is an attempt, and I think a successful and constructive attempt, to achieve this dual purpose. It has three characteristics and they all have the common denominator of assuring the fullest possible play even in these extreme circumstances of the forces of collective bargaining. This dual purpose is served in three ways:

First, this resolution affords every conceivable opportunity to the parties to settle this matter by agreement. I point out that the resolution comes at the end of a period in which all of the normal processes of law have been brought to bear to assure these parties free, collective bargaining, and the Congress has then gone twice to the unprecedented length of extending the status quo period for the purpose of letting collective bargaining work.

I am glad to live in a country which is willing to go to that length to let two parties settle an agreement involving all that is involved here in their own way. I am glad to live in a country that is willing to move into the short shadow of disaster to let two parties come to agreement on a matter involving the public interest. That is where we are today.

So we proceed from a situation in which the country has already gone that far. And then this resolution, itself, is another "last-clear-chance" procedure designed to give collective bargaining and mediation every conceivable opportunity to work.

This point, Mr. Chairman and members of the committee, is essential to an understanding of this resolution.

And then the second point: If a determination proves necessary, House Joint Resolution 559 dictates in terms impossible of misunderstanding that the determination must be drawn not from any free discretionary judgment of the Board which is set up, but, rather, from the history of collective bargaining in this case. This answer, regardless of how it comes, will be made by the parties, and the dictate of this resolution is that to whatever extent this Board plays any part, it must find its answer not in the predilections of its own members, but in what the parties have already done in this case. This is terribly important. It is a provision for the extension of collective bargaining. Its answer will come out of the architecture which the parties themselves have already developed.

And then third—although this is a point more of principle than of practice—even if there is a determination at the end of the 90 days, that determination will be subject to a subsequent agreement of the parties which will be controlling with respect to it. I don't mean to overmake this point. It will not be a significant practical point unless perhaps both parties still don't like that determination.

If one of them likes it and the other one doesn't, I don't mean to deduct the implications of its affect on the bargaining posture of one party or the other. But principle is important here, and the principle of this resolution is that even if there is a determination, it is of an interim quality and subject to the subsequent resolution by the parties.

I have only two other things about it. One is this: I think that there is every reasonable prospect of this case being settled under the mediation provisions of House Joint Resolution 559. That is the reasonable expectation and that gives this proposed resolution its principal characteristic and its mark. I don't mean by that to, in any way, disregard the fact that it includes the possibility of a determination by this Board, if that agreement isn't reached. But I want to make it quite clear that this is constructed on the expectation that settlements will be reached by bargaining and mediation during this period.

That would be perhaps the place to stop, Mr. Chairman, but I want to anticipate what I know will be an important part of the discussion of this case. I would like very respectfully to urge that the consideration of this proposal be on the basis of whether it makes sense instead of what somebody calls it. It is that important.

There is no question, and there will be no blinking or blushing of the fact, as far as I am concerned, that if there is not settlement by agreement and mediation there will be here a determination by persons other than the parties, if they are unable to complete their own agreement. It will be a small determination because the parties have already constructed virtually the complete arch of agreement in this case. They have not been able to put in the keystone. They have shaped that keystone, and it will be shaped further in the course of these proceedings. But they have completed the arch except for that.

I don't mean to diminish in any degree the fact that if they can't fit in that final keystone at the top of the arch this resolution provides it will be fitted in.

It does, as you indicated in your opening statement, Mr. Chairman, have in it an element of final determination. So does compulsory arbitration. So does seizure. But House Joint Resolution 559 is neither of those, and it is designed to prevent such infinitely broader and more extreme intrusions on free collective bargaining as those other terms suggest.

The relationship of 559 to compulsory arbitration is exactly the relation that a vaccination for smallpox which contains a minute element of the virus as to the disease itself; the relationship of 559 to compulsory arbitration being the same as the relationship of a tetanus shot to lockjaw.

I know compulsory arbitration and seizure from 4 years' service on the War Labor Board during the middle 1940's. I know it as a law which provided during that period that every dispute in the country could come to the War Labor Board and 625 of them a week did. They covered every issue that might conceivably be brought up. And the principal sanction, if there was not acceptance of the Board's directives or orders, was seizure. I know it and I don't like it.

I know compulsory arbitration from afar and the form it takes in Australia and New Zealand. In Australia, it is established by law, a law that provides in advance of any disputes arising that all indus-

trial disputes as to all industrial matters shall be arbitrated, and then it goes on in the law to define industrial matters as all matters pertaining to the relations of employers and employees, reading from the statute, "Without limiting the generalities of the foregoing, it includes," as I set out in my statement, the lists of inclusions, "all matters or things affecting or relating to work done or to be done; the privileges, rights and duties of employees and employers." And then every single thing the mind could devise as possibly coming up in the course of collective bargaining, all brought within the jurisdiction and responsibility of the arbitrators.

And then completing a long list, including finally, even, the provision of first aid equipment, medical attendance, ambulance facilities, restroom, sanitary, washing facilities, canteens, cafeterias, dining rooms, and other amenities for employees. And as though that wasn't enough, the law in Australia goes on to provide that it also includes all matters of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and the society as a whole.

That, Mr. Chairman and members of the committee, is compulsory arbitration. It is exactly what this resolution is designed to prevent happening in this country.

Then one other comparison. Public Law 88–108 was adopted to meet the railroad strike or crisis in 1963. That turned out to be compulsory arbitration. There was an effort, and an honest effort made, to prevent that happening, because the Congress wrote into that law that the decision of the arbitration board shall incorporate in its decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement, and to the narrowing of the areas of disagreement which had been accomplished in bargaining and mediation.

But we all know that it developed that the issues before that arbitration board, as it was called in that statute, were of such a nature—involving basic principles—that that board found it necessary to establish its own framework of decision.

House Joint Resolution 559 has been designed specifically to counteract the effects of Public Law 88–108 and to require that the answers in the present dispute be taken from the settlement course the parties have laid out and have come so near to getting.

I don't mean to press the point of terminology too far. In any sense, the practicalities in a situation of this kind, or any experience with the debate which properly accompanies a consideration of something like House Joint Resolution 559, makes you know that the argument about it will be cast in whatever terms best support the argument.

I just make this point: This resolution has been drawn from the deep conviction of a President and his advisers, the deep conviction that compulsory arbitration and seizure are wrong. It is neither of these two things. It represents simply the fullest possible degree of preserving the force of collective bargaining in this situation and the smallest possible degree of interference with that force.

If there are any means of serving that purpose more fully, any provision for them, a change in this resolution would be clearly within its intention.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Secretary.

At this time I would like to ask one question and then I will reserve the rest of my time until later.

Is there any collective bargaining going on now?

Secretary WIRTZ. There is none at the moment.

The CHAIRMAN. No attempts are being made, then, at mediation?

Secretary WIRTZ. There should be no unpleasantness about this. We have, of course, kept in constant contact with the parties and we expect to keep in constant contact with the parties, to take advantage of any opportunity that should open up during this period. I don't mean to sit back and wait. We expect to keep probing.

We have, within the last 10 days, gone through one period of hope and exchange of inquiries by the mediators with the parties. We are continuing to do that right straight on through, and in no lackadaisical manner.

But in answer to your question, there is nothing at the moment which permits me to give any promise or even expression of expectation of a settlement.

The CHAIRMAN. I might ask you one further question: When the mediation broke off, were the disputing parties very far apart?

Secretary WIRTZ. I never know how to answer that kind of question, Mr. Chairman. Anyone approaching the matter as a stranger would reach very easily the conclusion that they were very close together. It is not a matter of principle here. It is a matter of dollars and cents. It is a matter specifically of what the percentage of the general wage increase shall be, what special adjustments shall be made for the mechanics and the skilled journeymen. It is recognized there must be some. The question is how much they should be given to make up for a differential which is recognized. And there is a disagreement as to the lengths of the contract term. They are not matters of principle, but matters of dollars and cents.

So the easy, layman's answer to that would be they are quite close. We all know that there are involved here two strongly held views as to how much give there should be and one thing or another.

I think the answer to your question probably lies in the fact that the parties feel strongly enough about it that they have gone on for 10 months and have driven the Congress to two extensions of this, and have been unable to agree. They are responsible people, and they feel very strongly about it. So anybody looking at it from any distance would say they are very close together. Anybody looking at it from the inside would know that the positions are still strongly and intransigently held.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Secretary, if the committee were to adopt or if Congress were to adopt 559, what would happen at the end of 2 years?

Secretary WIRTZ. The situation would at that point be open to the established processes under the Railway Labor Act. Either party

would be in a position to serve notices, section 6 notices, for change in the agreement. If a dispute developed, there would be a period then, like the one we went through in this case. One side or the other, depending on who wanted to change the situation, would serve a notice indicating that change. It would go through the processes of the Railway Labor Act. It would involve mediation, the proffer of arbitration. If that were declined, then the establishment of an emergency board. Then we could conceivably come back to this point again. I don't think we will.

But my short answer would be, Mr. Friedel, that the normal processes of the Railway Labor Act would obtain at that point.

Mr. FRIEDEL. Would they be able to go to the courts to try to settle the dispute?

Secretary WIRTZ. No. You are talking about at the end of the 2-year period?

Mr. FRIEDEL. Yes.

Secretary WIRTZ. No, sir.

Mr. FRIEDEL. The bill that we passed in 1963 did give them that right.

Secretary WIRTZ. There was a lot of litigation on that case, some of which, to my understanding, is still pending, so my answer should appropriately be limited to that. There was a history of litigation both with respect to the extent and proper application of that act and with respect to the question of what the situation should be afterward.

I will take just a moment to explain that. The result of Public Law 88–108 was, in hard, practical terms a reduction of about 15,000 to 17,000 firemen on the railroads. The legal question which arose and to which you refer is whether at the end of that period there should be continued operation at the reduced manning basis or whether that period over it should revert back to earlier numbers. That is the litigation to which you refer, I think. There is no comparable possibility here.

Mr. FRIEDEL. The thing that disturbs me is if they can't go to court it is OK, but I remember in 1963 a bill where they were in agreement on quite a few areas, and on the other hand when they went to the courts they went back to the very beginning and couldn't even take into consideration what they agreed upon. It makes it much worse. I wouldn't want the same thing to happen here.

Secretary WIRTZ. That is my point in saying I know with confidence, Mr. Friedel, that this resolution has been drafted with that, I think, unfortunate experience clearly in mind and has been so drafted as to prevent that possibility.

Mr. FRIEDEL. Just to summarize, at the end of 2 years, after the agreement is handed down by the Mediation Board and they do not accept it, they go on strike then?

Secretary WIRTZ. Yes, sir, subject only to those delaying provisions in the Railway Labor Act which require them to go first to the mediation. But mine is a lawyer's qualification and answer. The practical answer to your question is, "Yes."

Mr. FRIEDEL. Thank you.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Secretary, I want to be sure of just what ground we are on this morning. I am not going to give away anything that

was said or divulge on any private basis, but there was a meeting at the White House the other day, and you and I were there, and everybody else concerned was there with the President.

I want to be sure that this resolution has the support of everybody in this administration who was there.

Secretary WIRTZ. Yes, sir, without any qualification.

The CHAIRMAN. Might I interrupt the gentleman to clarify that? I don't believe the group was polled to say they would give their assent in any way.

Mr. SPRINGER. I am not including anybody except in the administration.

Secretary WIRTZ. That was my understanding.

Mr. SPRINGER. Just those who were there. That includes the Attorney General, the President, yourself, Mr. Katzenbach, and I think Ambassador Goldberg was there, and he believed this was a just way to go about it.

Secretary WIRTZ. Yes. I think there were present that day Secretary McNamara and Secretary Boyd. I am not sure what others. And with the clarification the chairman referred to, your question was to the position of the executive branch. The recommendation comes with the unanimous approval of the executive branch.

Mr. SPRINGER. Has there been a legal opinion with reference to whether or not this is enforcible and constitutional?

Secretary WIRTZ. Yes, sir, there has been.

Mr. SPRINGER. And there is no doubt about that?

Secretary WIRTZ. That is the advice of the Attorney General, and there is no doubt about it.

Mr. SPRINGER. I would like to ask Judge Fahy as the Chairman of the last Board: Is this your recommendation?

Judge FAHY. Yes, indeed.

Mr. SPRINGER. Is it the unanimous recommendation of the Board?

Judge FAHY. Of the Board; yes. The Board was composed of, in addition to myself, Dr. Dunlop, of Harvard University, Dr. Taylor, of the University of Pennsylvania, and those two gentlemen were quite experienced and knowledgeable in this field; more so, I think, than myself. They have approved this proposal of the President, as well as I have.

Mr. SPRINGER. One thing further from you, Judge: It is my understanding that if, at the end of 30 days of negotiation, no agreement has been reached, the basis then for a decision by the Board to be appointed by the President under the language of this act, the basis of that would be the already findings of your Commission, your Board; is that correct?

Judge FAHY. The basis for the hearing would be the mediation proposal which my panel made. But the Board to be appointed under this resolution would have the right to modify our proposal under the standards set forth in this resolution.

Mr. SPRINGER. Thank you.

One further question, Mr. Secretary: I have been trying to rationalize your thinking on this matter as to why it is not compulsory arbitration. I am taking the most favorable view, not that I necessarily agree with it, but I am trying to see if I can rationalize how you are coming to this conclusion. That is, that at the end of the 60-day period,

whatever is put into effect by the Board, whatever findings, conclusions, they come to, if no action were further taken, and 90 days went by, that must be accepted; is that correct?

Secretary WIRTZ. That is not the heart of it. That is one element, the interim nature of the determination, but it is much more basic than that. The difference between a law like the Australian law or a law like the War Labor Disputes Act, which provided for a third party settlement, unguided, of all kinds of disputes, all of which does seem to me properly called compulsory arbitration, and then, on the other hand, in a case like this, which has only a single relationship and that is that there is an element of final determination in it. But the characteristics of it beyond that, in this case, are that it draws completely upon the collective bargaining which the parties have almost finished, and by law is tied to that.

Mr. SPRINGER. Mr. Secretary, I don't want to be technical but it is my understanding that this is not a full and final determining because no contract has been entered into between the respective parties.

Secretary WIRTZ. That is true.

Mr. SPRINGER. But you are not relying upon that as a basis of not being——

Secretary WIRTZ. I relied upon that as the third point in my statement, and it is a perfectly valid and sound point of principle. But I don't mean to mislead either myself or anybody else, because I realize the possibility is there of that determination so nearly coinciding with the view of one party or the other that they would hold to it rather than doing anything else.

So as a practical matter there is that point. But I am really leaning over backward. The point of principle is exceedingly important. It would have, technically, the effect of only an interim determination and would continue to be subject to the parties' agreement.

Mr. SPRINGER. I take it, Mr. Secretary, that in coming here to testify, or at least this is what I gather from the White House, not from what anybody said but as a general tenor, what you were concerned with was really the public at large and not either one of the parties. Is that your thinking?

Secretary WIRTZ. Yes. I would add only a refinement of that.

Mr. SPRINGER. I believe the President dealt on that at quite some length.

Secretary WIRTZ. That is right. We would both agree that the public's interest does include maximizing the parties' opportunity to make their own agreement. But at this point I think it is necessary to assert a public interest which rises above or which includes the possibility of settlement if they disagree.

Mr. SPRINGER. There is one thing further. Under this any right to strike would be removed for whatever period the Board designates?

Secretary WIRTZ. The right to strike over these issues would be removed for either the period of the parties' agreement, which is the law under the Railway Labor Act, or for such period as this Board would set in its determination, whichever came first.

Mr. SPRINGER. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Jarman.

Mr. JARMAN. Mr. Secretary, the particular question that is in my mind and the concern that I have in this matter is brought out in

one sentence of your statement in which you referred to the fact that this is the third time in 4 years that an individual labor dispute has required the attention of the Congress. The concern that I have in an emergency situation of this sort is the justification that we have in a single-shot procedure of this sort.

If this legislation is justified now in view of the emergency, to put the leverage on collective bargaining to achieve a result, a settlement, within a reasonable period of time, why aren't we considering general legislation that would apply to such emergency situations? The language of the bill says, "Whereas the Congress finds that an emergency measure is essential to the security and continuity of transportation services by such carriers."

The concern I have is in the danger of this becoming a set pattern of single shooting this problem in terms of legislation dealing with each such emergency. Why shouldn't we be considering general legislation that would meet the emergency situations of this sort when they do arise?

Secretary WIRTZ. If it happens often, I will be here testifying on a different basis. I don't think it should happen often. This is an issue which has a seriously devisive effect on any form in which it is taken up and isn't worth its salt if it happens very often. If it doesn't happen very often, Mr. Jarman, then I will have the feeling that that is a comparatively small price to pay for the avoidance of procedures which they resorted to in the other countries. But it can't happen very often without forcing us to that other point.

I have, in connection with this matter, recently made an inquiry that has to be qualitative about how much the parliaments of other countries are bothered by labor disputes. It is an interesting thing that with the exception of the Scandinavian countries labor problems come to this Congress in individual cases less, if my inquiry is complete enough, than in any other major parliament in the world. But I don't think they ever ought to come up here on an individual case. I think every time they do come up we have taken another step toward the permanent kind of legislation.

A much shorter answer to your question is it becomes a judgment matter. I don't think that the situation which has brought three cases out of 300,000 or 400,000 to this Congress in 4 years is enough to warrant passing legislation which does intrude permanently on the freedom to bargain. I don't know whether five cases would do it or six or whatever it is. It is a very small number.

The country shouldn't be put to this. My short answer—and it should have been shorter—is that I am still hoping very much, and expecting, that it will be possible to keep this number down. I hope it will be the last one. I don't know whether it will be or not.

What I am saying, too, is if it happens very often then you will find me shifting my position.

Mr. JARMAN. Thank you.

The CHAIRMAN. Mr. Devine.

Mr. DEVINE. Thank you, Mr. Chairman.

Mr. Secretary, would you then look upon this as a temporary solution to a singular problem rather than something that people would use as a pattern in the future?

Secretary WIRTZ. We are talking about the broad problem of labor disputes?

Mr. DEVINE. Yes.

Let me put it this way: Are we creating another board—well, as you know, at the President's request we granted a 20-day extension and then a 47-day extension and now at the President's request this will be a 90-day type of situation with a 2-year expansion to it. What I am trying to say is this: I think the Congress is getting sick and tired of these bandaid types of remedies to situations, where perhaps the parties are not collectively bargaining in good faith.

It seems to me that some of the parties are using the recommendations of the President's Emergency Board and other boards as a floor from which to commence negotiations. I don't know whether this is going to solve the situation we will be in in the future. In the last 3 years there have been three or four. But when does it become too often?

Secretary WIRTZ. I sympathize completely with your reference to the bandaid. I don't think it is a matter in which anyone takes any pride. All of the resources of the Department of Labor, the three members of the National Mediation Board, three members of an emergency board, three members of a special mediation panel, their services have been brought to bear on this situation. Now we come along with a proposal for another. I think the bandaid suggestion is a good one. I think you would agree, too, that we don't want to amputate until we have to.

Mr. DEVINE. I would agree we don't want to amputate, but when the parties, and I would refer to both of them in this sense, turn to Congress every time a recommendation of a Presidential Board is made to which both of them don't agree, for us to answer the solutions, the Congress is going to be driven to a point that perhaps they will pass what might be considered as restrictive legislation.

I don't think we should preoccupy ourselves with words like "don't use compulsory arbitration," they don't like it.

I think we are probably going to have to face up to it one way or another. I am not sure that this is the way to do it.

Secretary WIRTZ. I guess the President in his message anticipated this question and answered it better than I have. He said at the end of his message:

> We must take this action now as we continue and renew our search for a just and general solution to emergency strike or lockout problems in our country.

Mr. DEVINE. Did he say that when sending up this bill, or the 20-day bill, or the 47-day bill?

Secretary WIRTZ. When he sent up this bill.

Mr. DEVINE. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Moss.

Mr. Moss. Mr. Secretary, there seems to be emphasis given to the fact that we have twice previously in this current dispute granted extensions.

Don't you think the record should reflect those extensions, the circumstances?

The first one was at the request of the President of the United States, in order to avoid embarrassment to the Government of the United States, that we grant 20 days. This would be equated with the 80-day period provided under Taft-Hartley. He had long been scheduled to attend an International Conference of the American States in Punta

del Este, and the Congress responded to that request. It seemed a reasonable request. We did it without any kind of hearings in this committee from either party. We heard from the administration in attendance at the White House, but in sessions before this committee no testimony was elicited from any source.

The 20 days expired and then we were urged to extend for 47 days. What was the objective of the 47 days? We have only been into it just a few days and we now have for the third time a request for an additional extension.

Secretary WIRTZ. The basic reason underlying the suggestion for the 47 days is to permit the Congress due time to consider a measure of this sort. It is an important matter.

Mr. MOSS. You feel, then, that in this instance we should attempt to develop this as fully as possible for the record, in view of the fact that we are, in effect, playing an important role in the mediation of this dispute. We should develop all of the economic factors involved?

Secretary WIRTZ. No, sir; I would not feel that.

Mr. MOSS. Why would you not feel that?

Secretary WIRTZ. I do not understand the process before the Congress to be the process of mediation. I would agree completely with the first part of your statement that the circumstances, the elements, involved in the legislative side of it are so important that there should be a full exploration of that.

I do not mean by my other answer to suggest any objection at all to the undertaking of any mediatory efforts on the part of the Congress.

But in terms of your question as to the reason for the period, I think it relates to the legislative process rather than the mediation process.

Mr. MOSS. In this proposed legislation, lurking in the background at all times is the assurance that if settlement is not reached an award will be made. You have stated that great care has been taken to draft the language of this proposal to avoid what is now confessed to have been compulsory arbitration.

Yet as I read the second step the Board has the authority to modify its recommendations to reflect factors other than those arrived at in its mediation efforts.

Am I correct in my interpretation of that?

Secretary WIRTZ. Yes, sir.

Mr. MOSS. Then how does it differ?

Secretary WIRTZ. Differ from what?

Mr. MOSS. From Public Law 88–108.

Secretary WIRTZ. In that in this bill, the proposed resolution, there is the specific instruction by the Congress that the deliberations and determinations of the Board are to be based on an identified proposition referred to specifically, and with modifications limited to those which were permissible under four named criteria. There is that difference.

Mr. DINGELL. Would the gentleman yield?

Mr. MOSS. I will be happy to yield.

Mr. DINGELL. Mr. Secretary, isn't it a fact that we are legislating into the hands of the Board authority to make findings upon the parties which will be binding for a period of 2 years?

Secretary WIRTZ. You are legislating the authority——

Mr. DINGELL. To make findings regarding wages and working conditions which would be binding for a period of 2 years.

Secretary WIRTZ. I think the answer to your question is yes.

Mr. DINGELL. Absolutely.

Secretary WIRTZ. No, not absolutely. I will be glad to develop that in its context, but when you add absolutely, I am not talking absolutely.

Mr. DINGELL. Just a moment, sir. We have the most limited amount of time.

Secretary WIRTZ. Enough for the full truth, Mr. Dingell, and when you say absolutely, my answer does not include that word.

Mr. DINGELL. All right. I will put the word in, Mr. Secretary. You and I are good friends, but we are entitled to differ on this matter and to differ in short because we have a very brief amount of time.

But compulsory arbitration is simply the legislating into the hands of an arbitration board the power to make a finding which will be binding upon the parties to a labor dispute for any period, whether it be permanent or temporary in nature.

Am I correct?

Secretary WIRTZ. No, sir. The logic, Mr. Dingell, respectfully and under the terms that you put it, the logic of that proposition is that that you and I grew up on, the false logic, that a man has two legs, an ostrich has two legs, therefore, a man is an ostrich. That is not right.

Mr. DINGELL. I am not making the statement that a man is an ostrich. I am just saying that we are legislating into the hands of a body, a labor body, the power to make a finding which will be binding on the parties for a period of 2 years.

Secretary WIRTZ. That is one element, a 1 percent element in this case.

Mr. DINGELL. That is also, Mr. Secretary, a definition of compulsory arbitration, is it not?

Secretary WIRTZ. Yes, sir.

Mr. DINGELL. I thank the gentleman for yielding.

Secretary WIRTZ. My apologies, Mr. Dingell. You will realize the importance of the point to me.

Mr. Moss. You mentioned there have only been three out of 300,000 cases that have been brought to the Congress.

Secretary WIRTZ. We estimate 100,000 collective bargaining agreements a year, so it would be three cases out of 400,000 in these 4 years.

Mr. Moss. Aren't you now applying the logic of the ostrich and the man because you are looking at quantity and not quality, you are not looking at the cases as they are defined, the nature of them, the scope of the involvement of the Nation's interest.

So the comparison becomes meaningless excepting as an exercise in statistical gymnastics.

How many railroad disputes have been settled in that period of time without being brought to the Congress?

Secretary WIRTZ. Would you like it in terms of the number of cases or the number of parties? This is national. There have been a large number of them during this period.

Mr. Moss. The one which properly defines——

Secretary WIRTZ. I should be glad to give you a statement, and I can either give it to you now or supply it later, in which we have taken those cases which on a qualitative basis are important cases.

That, you are right, is a much fairer basis. A good percentage of those are railroad and airline cases.

Well, I can give it to you in general terms. I think the fairest estimate, the fairest qualitative statement of that, Mr. Moss, is this: There are what the National Mediation Board Chairman Mr. O'Neill and I would consider probably 100 to 500 important cases a year, bellwether cases, which includes at least the possibility of broadspread, crisis conditions of one kind or another.

So a 100 to 500 figure would be a fairer figure than the one to which you referred.

Mr. Moss. Then we want to narrow it down to a better definition. How many of them have in the background a precedent of congressionally mandated settlements?

Secretary WIRTZ. That background, if I understand your question, is limited almost completely in the last 20 years to transportation cases and specifically to the railroad and the airline cases. Those are the only two.

(The following information was subsequently submitted:)

Department of Labor Statistics on disposition of railroad and airline cases, fiscal years 1963–67

Fiscal year	Railroad	Airlines
Mediation:		
1963	183	66
1964	198	54
1965	188	48
1966	200	36
1967 through April	[1] 207	
Subtotal	926	204
Total cases	1,130	
Representation:		
1963	42	26
1964	27	27
1965	43	23
1966	68	42
1967 through April	[1] 74	
Subtotal	254	118
Total cases	372	
Total mediation and representation cases	1,502	

[1] Includes airlines.

Source: National Mediation Board.

Mr. Moss. Thank you.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

Mr. Secretary, with the Congress intervening in the airline strike and the rail strike, do you feel there has been a bit of a disposition to refrain from a settlement, depending on the fact that the Congress will finally step in and do something so the cat is off the back of both parties involved?

Secretary WIRTZ. Yes. There have been some signs along that line.

Mr. NELSEN. I have a further question. The President is to appoint a five-man special board. Are there any criteria upon which the selection of the five men will be made, or is that left entirely to the judgment of the President?

Secretary WIRTZ. There is no identification in the bill except that they are referred to as five members to be named by the President. In his accompanying statement he has indicated that he would expect to make three of these members—well, first he has said that they will all be public members. That is a significant point. It is a mark of the maturity of this relationship, that the lines between the sides are getting finer.

Where we talked in the War Labor Board about the public, labor, and industry members, these would all be public members. But he has gone on to say that one would be selected because of his particular identification with labor, and another because of his particular identification with management.

Mr. NELSEN. That 2-year period would begin on January 1, 1967; is that correct?

Secretary WIRTZ. Yes.

Mr. NELSEN. Thank you.

I have no more questions, Mr. Chairman.

The CHAIRMAN. Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, you made a very fine statement this morning to the committee, but I think that, before we can enact such sweeping legislation as we have before us, we must consider a great deal that is presently lacking in the record before the committee.

I would point out that your statement is entirely deficient of any economic data upon which this committee can make a finding.

It is also very deficient, Mr. Secretary, with regard to the effect of a nationwide railroad strike upon the economy of this country.

I believe you will agree that a wise Congress, legislating in an area as important as this, would insist upon having a record on both points, neither of which happens to be before us today.

Would you submit to this committee the appropriate economic data as to the effect of a nationwide railroad strike upon the country and also, if you please, information as to the economic issues in question of the matter before us?

I would like to have a statement; I am not asking you to give it to us at this particular moment, but I think it would be more appropriate to submit it.

Secretary WIRTZ. It is right here.

Mr. DINGELL. I would also like to have information from you, if you please, Mr. Secretary, as to wage scales in this industry, the rail-

road industry, compared to wage scales in other industries for comparable crafts, professions, skills, and seniority.

(The following information was received by the committee:)

Straight-time hourly earnings of selected classes of shop employees, class I railroads, and selected maintenance and powerplant occupations in private industries [1] in metropolitan areas, February 1966 [2]

Occupation and industry	Mean straight-time hourly earnings of railroad employees	Hourly earnings [3] in maintenance and powerplant occupations			
		Number of workers	Mean	Median	Middle range
Electricians, maintenance:					
All industries studied		56,034	$3.47	$3.51	$3.21–$3.75
Manufacturing		49,129	3.45	3.50	3.22– 3.73
Electrical workers A (ICC Reporting Division 58)	$3.09				
Electrical workers B (ICC Reporting Division 59)	3.05				
Electrical workers C (ICC Reporting Division 60)	3.25				
Engineers, stationary:					
All industries studied		22,031	3.31	3.39	2.95– 3.71
Manufacturing		13,649	3.39	3.43	3.06– 3.72
Stationary engineers, steam (ICC Reporting Division 73)	3.11				
Firemen, stationary boiler:					
All industries studied		14,884	2.75	2.81	2.40– 3.18
Manufacturing		12,405	2.77	2.81	2.43– 3.18
Oilers:					
All industries studied		14,055	2.76	2.83	2.56– 3.04
Manufacturing		13,386	2.75	2.82	2.55– 3.03
Stationary firemen, oilers, coal passers, and water tenders (ICC Reporting Division 74)	2.77				
Helpers, maintenance trades:					
All industries studied		29,343	2.67	2.71	2.46–2.98
Manufacturing		23,599	2.70	2.72	2.50–3.00
Skilled trades helpers (ICC Reporting Division 64)	2.73				
Machine-tool operators, toolroom:					
All industries studies		25,208	3.45	3.54	3.21–3.77
Manuacturing		25,054	3.54	3.54	3.21–3.77
Machinists, maintenance:					
All industries studied		44,576	3.45	3.49	3.19–3.72
Manufacturing		42,175	3.45	3.49	3.19–3.71
Mechanics, maintenance:					
All industries studied		72,827	3.24	3.13	2.96–3.59
Manufacturing		67,246	3.24	3.30	2.96–3.57
Machinists (ICC Reporting Division 61)	3.07				
Sheet-metal workers, maintenance:					
All industries studied		6,147	3.44	3.49	3.26–3.66
Manufacturing		5,812	3.45	3.49	3.29–3.66
Sheet-metal workers (ICC Reporting Division 63)	3.07				

[1] Includes the following industry divisions: Manufacturing; transportation, communication, and other public utilities; wholesale trade; retail trade; finance, insurance, and real estate; and selected services. Excludes extractive industries, construction, and government.

[2] Average month of reference for maintenance and powerplant occupations. Data were collected during the period July 1965 through June 1966.

[3] Excludes premium pay for overtime and for work on weekends, holidays, and late shifts. The mean is computed for each job by totaling the earnings of all workers and dividing by the number of workers. The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown. The middle range is defined by 2 rates of pay; a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.

NOTE.—The lack of job descriptions for the railroad jobs precludes close comparison of duties. See attached description of maintenance and powerplant occupations (attachment A).

Source: Railroad occupations: ICC statement M-300; maintenance and powerplant occupations, BLS area wage surveys.

Attachment A

Descriptions for Selected Jobs Studied on a Cross-Industry Basis[1]

MAINTENANCE AND POWERPLANT JOBS

Carpenter, maintenance

Performs the carpentry duties necessary to construct and maintain in good repair building woodwork and equipment such as bins, cribs, counters, benches, partitions, doors, floors, stairs, casings, and trim made of wood in an establishment. Work involves *most of the following:* Planning and laying out of work from blueprints, drawings, models, or verbal instructions; using a variety of carpenter's handtools, portable power tools, and standard measuring instruments; making standard shop computations relating to dimensions of work; selecting materials necessary for the work. In general, the work of the maintenance carpenter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Electrician, maintenance

Performs a variety of electrical trade functions such as the installation, maintenance, or repair of equipment for the generating, distribution, or utilization of electric energy in an establishment. Work involves *most of the following:* Installing or repairing any of a variety of electrical equipment such as generators, transformers, switchboards, controllers, circuit breakers, motors, heating units, conduit systems, or other transmission equipment; working from blueprints, drawings, layout, or other specifications; locating and diagnosing trouble in the electrical system or equipment; working standard computations relating to load requirements of wiring or electrical equipment; using a variety of electrician's handtools and measuring and testing instruments. In general, the work of the maintenance electrician requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Engineer, stationary

Operates and maintains and may also supervise the operation of stationary engines and equipment (mechanicals or electrical) to supply the establishment in which employed with power, heat, refrigeration, or air-conditioning. Work involves: Operating and maintaining equipment such as steam engines, air compressors, generators, motors, turbines, ventilating and refrigerating equipment, steam boilers and boiler-fed water pumps; making equipment repairs; keeping a record of operation of machinery, temperature, and fuel consumption. May *also* supervise these operations. *Head or chief engineers in establishments employing more than one engineer are excluded.*

Fireman, stationary boiler

Fires stationary boilers to furnish the establishment in which employed with heat, power, or steam. Feeds fuels to fire by hand or operates a mechanical stoker, gas, or oil burner; checks water and safety valves. May clean, oil, or assist in repairing boilerroom equipment.

Helper, maintenance trades

Assists one or more workers in the skilled maintenance trades, by performing specific or general duties of lesser skill, such as keeping a worker supplied with materials and tools; cleaning working area, machine, and equipment; assisting worker by holding materials or tools; performing other unskilled tasks as directed by journeyman. The kind of work the helper is permitted to perform varies from trade to trade: In some trades the helper is confined to supplying, lifting, and holding materials and tools and cleaning working areas; and in others he is permitted to perform specialized machine operations, or parts of a trade that are also performed by workers on a full-time basis.

Machine-tool operator, toolroom

Specializes in the operation of one or more types of machine tools, such as jig borers, cylindrical or surface grinders, engine lathes, or milling machines in the construction of machine-shop tools, gauges, jigs, fixtures, or dies. Work involves *most of the following:* Planning and performing difficult machining operations; processing items requiring complicated setups or a high degree of accuracy; using a variety of precision measuring instruments; selecting feeds,

[1] Prepared by U.S. Department of Labor, Bureau of Labor Statistics, Division of Wages and Industrial Relations, revised June 1961.

speeds, tooling and operation sequence; making necessary adjustments during operation to achieve requisite tolerances or dimensions. May be required to recognize when tools need dressing, to dress tools, and to select proper coolants and cutting and lubricating oils. For cross-industry wage study purposes, machine-tool operators, toolroom, in tool and die jobbing shops are excluded from this classification.

Machinist, maintenance

Produces replacement parts and new parts in making repairs of metal parts of mechanical equipment operated in an establishment. Work involves *most of the following:* Interpreting written instructions and specifications; planning and laying out of work; using a variety of machinist's handtools and precision measuring instruments; setting up and operating standard machine tools; shaping of metal parts to close tolerances; making standard shop computations relating to dimensions of work, tooling, feeds and speeds of machining; knowledge of the working properties of the common metals; selecting standard materials, parts, and equipment required for his work; fitting and assembling parts into mechanical equipment. In general, the machinist's work normally requires a rounded training in machine-shop practice usually acquired through a formal apprenticeship or equivalent training and experience.

Mechanic, automotive (maintenance)

Repairs automobiles, buses, motortrucks, and tractors of an establishment. Work involves *most of the following:* Examining automotive equipment to diagnose source of trouble; disassembling equipment and performing repairs that involve the use of such handtools as wrenches, gauges, drills, or specialized equipment in disassembling or fitting parts; replacing broken or defective parts from stock; grinding and adjusting valves; reassembling and installing the various assemblies in the vehicle and making necessary adjustments; alining wheels, adjusting brakes and lights, or tightening body bolts. In general, the work of the automotive mechanic requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Mechanic, maintenance

Repairs machinery or mechanical equipment of an establishment. Work involves *most of the following:* Examining machines and mechanical equipment to diagnose source of trouble; dismantling or partly dismantling machines and performing repairs that mainly involve the use of handtools in scraping and fitting parts; replacing broken or defective parts with items obtained from stock; ordering the production of a replacement part by a machine shop or sending of the machine to a machine shop for major repairs; preparing written specifications for major repairs or for the production of parts ordered from machine shop; reassembling machines; and making all necessary adjustments for operation. In general, the work of a maintenance mechanic requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience. Excluded from this classification are workers whose *primary duties* involve setting up or adjusting machines.

Millwright

Installs new machines or heavy equipment and dismantles and installs machines or heavy equipment when changes in the plant layout are required. Work involves *most of the following:* Planning and laying out of the work; interpreting blueprints or other specifications; using a variety of handtools and rigging; making standard shop computations relating to stresses, strength of materials, and centers of gravity; alining and balancing of equipment; selecting standard tools, equipment, and parts to be used; installing and maintaining in good order power transmission equipment such as drives and speed reducers. In general, the millwright's work normally requires a rounded training and experience in the trade acquired through a formal apprenticeship or equivalent training and experience.

Oiler

Lubricates, with oil or grease, the moving parts of wearing surfaces of mechanical equipment of an establishment.

Painter, maintenance

Paints and redecorates walls, woodwork, and fixtures of an establishment. Work *involves the following:* Knowledge of surface pecularities and types of paint required for different applications; preparing surface for painting by re-

moving old finish or by placing putty or filler in nail holes and interstices; applying paint with spray gun or brush. May mix colors, oils, white lead, and other paint ingredients to obtain proper color or consistency. In general, the work of the maintenance painter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Pipefitter, maintenance

Installs or repairs water, steam, gas, or other types of pipe and pipe fittings in an establishment. Work involves *most of the following:* Laying out of work and measuring to locate position of pipe from drawings or other written specifications; cutting various sizes of pipe to correct lengths with chisel and hammer or oxyacetylene torch or pipe-cutting machine; threading pipe with stocks and dies; bending pipe by hand-driven or power-driven machines; assembling pipe with couplings and fastening pipe to hangers; making standard shop computations relating to pressures, flow, and size of pipe required; making standard tests to determine whether finished pipes meet specifications. In general, the work of the maintenance pipefitter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience. *Workers primarily engaged in installing and repairing biulding sanitation or heating systems are excluded.*

Plumber, maintenance

Keeps the plumbing system of an establishment in good order. Work involves: Knowledge of sanitary codes regarding installation of vents and traps in plumbing system; installing or repairing pipes and fixtures; opening clogged drains with a plunger or plumber's snake. In general, the work of the maintenance plumber requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Sheet-metal worker, maintenance

Fabricates, installs, and maintains in good repair the sheet-metal equipment and fixtures (such as machine guards, grease pans, shelves, lockers, tanks, ventilators, chutes, ducts, metal roofing) of an establishment. Work involves *most of the following:* Planning and laying out all types of sheet-metal maintenance work from blueprints, models, or other specifications; setting up and operating all available types of sheet-metal-working machines; using a variety of handtools in cutting, bending, forming, shaping, fitting, and assembling; installing sheet-metal articles as required. In general, the work of the maintenance sheet-metal worker requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Tool and die maker

(Die maker; jig maker; tool maker; fixture maker; gauge maker)

Constructs and repairs machine-shop tools, gauges, jigs, fixtures or dies for forgings, punching and other metal-forming work. Work involves *most of the following:* Planning and laying out of work from models, blueprints, drawings, or other oral and written specifications; using a variety of tool and die maker's handtools and precision measuring instruments, understanding of the working properties of common metals and alloys; setting up and operating of machine tools and related equipment; making necessary shop computations relating to dimensions of work, speeds, feeds, and tooling of machines; heattreating of metal parts during fabrication as well as of finished tools and dies to achieve required qualities; working to close tolerances; fitting and assembling of parts to prescribed tolerances and allowances; selecting appropriate materials, tools, and processes. In general, the tool and die maker's work requires a rounded training in machine-shop and toolroom practice usually acquired through a formal apprenticeship or equivalent training and experience.

For cross-industry wage study purposes, tool and die makers in tool and die jobbing shops are excluded from this classification.

Average straight-time hourly earnings,[1] selected maintenance and powerplant occupations in private industries[2] in 6 metropolitan areas, 1965–67

Occupation and industry division	Baltimore, Md.		Kansas City, Mo.-Kans.		Minneapolis-St. Paul, Minn.		St. Louis, Mo.-Ill.		San Francisco-Oakland, Calif.		Seattle-Everett, Wash.	
	November 1965	November 1966	November 1965	November 1966	January 1966	January 1967	October 1965	October 1966	January 1966	January 1967	October 1965	October 1966
Electricians, maintenance:												
All industries studied	$3.23	$3.41	$3.63	$3.78	$3.69	$3.87	$3.63	$3.78	$3.84	$3.93	[3]	$3.69
Manufacturing	3.25	3.47	3.61	3.77	3.68	3.85	3.60	3.74	3.88	3.93	[3]	3.67
Engineers, stationary:												
All industries studied	3.13	3.23	3.35	3.53	3.53	3.51	3.50	3.68	3.78	3.98	$3.45	3.62
Manufacturing	3.16	3.31	3.54	3.69	3.36	3.69	3.61	3.78	3.95	4.06	3.46	3.63
Firemen, stationary boiler:												
All industries studied	2.82	2.88	2.66	2.68	3.20	3.22	3.37	3.52	3.09	3.12	2.80	3.00
Manufacturing	2.88	2.96	2.65	2.64	3.27	3.25	3.30	3.43	3.09	3.10	2.80	3.00
Oilers:												
All industries studied:	2.89	2.96	2.85	2.97	2.90	2.99	3.17	3.25	3.09	3.20	2.86	3.03
Manufacturing	2.90	2.96	2.85	2.97	2.90	2.99	3.17	3.25	3.05	3.15	2.86	3.03
Helpers, maintenance trades:												
All industries studied	2.66	2.73	2.78	2.89	2.88	3.17	2.85	3.00	2.97	3.08	2.71	2.81
Manufacturing	2.68	2.63	2.77	2.89	2.78	3.21	2.87	3.03	3.05	3.15	2.70	2.80
Machine-tool operators, toolroom:												
All industries studied	3.29	3.29	3.37	3.52	3.11	3.28	3.42	3.59	3.76	3.80	[3]	[3]
Manufacturing	3.29	3.29	3.37	3.52	3.11	3.28	3.42	3.59	3.77	3.81	[3]	[3]
Machinists, maintenance:												
All industries studied	3.43	3.66	3.61	3.79	3.59	3.72	3.61	3.64	3.86	3.96	3.43	3.61
Manufacturing	3.44	3.70	3.61	3.80	3.60	3.71	3.59	3.62	3.86	3.94	3.42	3.60
Mechanics, maintenance:												
All industries studied	3.29	3.58	3.37	3.46	3.24	3.29	3.17	3.40	3.58	3.73	3.39	3.56
Manufacturing	3.29	3.59	3.31	3.42	3.14	3.28	3.16	3.40	3.58	3.73	3.39	3.56
Sheet-metal workers, maintenance:												
All industries studied	3.31	3.38	3.62	3.73	3.32	3.87	3.58	3.66	3.63	3.77	[3]	[3]
Manufacturing	3.32	3.42	3.62	3.73	3.32	3.87	3.60	3.68	3.65	3.71	[3]	[3]

[1] Excludes premium pay for overtime and for work on weekends, holidays, and late shifts.

[2] Includes the following industry divisions: manufacturing; transportation, communication, and other public utilities; wholesale trade; retail trade; finance, insurance, and real estate; and selected services. Excludes extractive industries, construction, and government.

[3] Not available.

Source: BLS area wage survey.

Mr. DINGELL. I think it is also important, Mr. Secretary, that this committee have before it information as to the cost of the different proposals to the carriers, a matter which has not been before the committee as yet.

Secretary WIRTZ. If I may take these one at a time so I won't get them confused, first you want a statement on the impact data. It is not technically in the record. It is in the documents which have been given to you.

I will ask that they be made part of the record, and also the President's statement accompanying the first proposal for the extension which does set out the impact data.

Second, you have asked for economic data. The record does include—the emergency board report does include—the complete economic data.

I will suggest, Mr. Chairman, that that be made part of the record.

(The documents referred to follow:)

[H. Doc. 104, 90th Cong., 1st sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A REPORT ON NEGOTIATIONS TO WARD OFF THE THREATENED RAILROAD STRIKE AND A RECOMMENDED JOINT RESOLUTION

To the Congress of the United States:

The threat of a crippling and paralyzing nation-wide railroad strike now faces America.

At 12:01 a.m. on Thursday, April 13th, 137,000 shopworkers—mechanics, powerhouse employees and shop laborers—without whose services the trains cannot operate are scheduled to begin a walkout against virtually every major railroad in this country. Over 95 percent of the Nation's railroad mileage will be affected.

For almost a year the parties have engaged in extensive collective bargaining to reach a settlement. These negotiations have proceeded with a seriousness of purpose. The parties have bargained hard and with skill.

The major issues on the bargaining table are traditional but vital. They include higher wage rates, larger wage differentials between skilled and unskilled workers, and the length of the contract.

Since October, 1966, the negotiations have taken place under the Railway Labor Act—the machinery established by the Congress to handle disputes involving the Nation's railroads.

Through mediation and through the recommendations of an Emergency Board that I established last January, some progress has been made. Recently, at my direction, Secretary of Labor Wirtz and Under Secretary of Labor Reynolds have worked, with National Mediation Board Chairman O'Neill, to achieve a fair settlement. Out of this process many of the issues have been narrowed. Others have been eliminated.

Now, however, the procedures under the Railway Labor Act have run their full course—but the parties have still not been able to resolve their differences.

Under the law, the unions are free to strike on 12:01 a.m. April 13th unless:

—A settlement is immediately reached.

—The unions agree to a voluntary extension of the "no strike" period. The government's request for such an agreement has already been rejected.

—Congress takes special action to keep the trains running while the parties can continue to work toward a settlement through collective bargaining without a nation-wide strike.

In this Message I call upon the Congress to take that special action.

The Proposal

I have carefully weighed the type of action Congress might usefully consider to meet the needs of the immediate situation.

I have consulted with the wisest advisors available to a President.

The legislation I am proposing takes full account of two central considerations. The first is the significance of uninterrupted rail service to the national welfare and safety, and particularly to defense production. The second is that even in these extreme circumstances, collective bargaining must be given every opportunity to work—with the bargainers fully aware of the national significance of their responsibility.

With these considerations in mind, I recommend that Congress approve a joint resolution to extend the 60-day "no strike" period in this case for an additional 20 days.

The resolution would have the effect of extending the "no strike" period under the Railway Labor Act for this case to a full 80 days—the same period allowed under the Taft-Hartley Act. The normal period of restraint under the Railway Labor Act has already expired.

The proposed joint resolution follows the finding made by the Emergency Board of three distinguished Americans to whom this case was referred under the Railway Labor Act. The Board was of the conviction that:

"There should be established a longer period of statutory restraint subsequent to the submission of an Emergency Board's report in order to give the parties additional time to negotiate a settlement. The Board notes that under the Taft-Hartley Act the parties have a period of 80 days after the Board Report is submitted to the President."

The proposed resolution gives the process of collective bargaining a last clear chance in this case while giving the Nation the uninterrupted railroad service it must have. I have always believed that solutions arrived at through hard and honest negotiations are preferable to those imposed by decree.

I will appoint a panel of special mediators to assist the parties in reaching a settlement during this 20-day period. I have also asked Secretary of Labor Willard Wirtz, Secretary of Transportation Alan Boyd, and representatives of the other interested government agencies to work with the parties.

The Impact of a Strike

The differences which remain in this dispute are important. But they are slight when compared with the price to the country and to these parties from a suspension of rail service.

The purpose of this Message and of this proposal is to impress upon the parties and to make clear to the Nation what is at stake here.

The cost of a nation-wide railroad strike would be incalculable. I urge you to consider these facts:

—On the first morning of the strike three-quarters of a million rail commuters in New York, Chicago, and Philadelphia alone would be unable to take their trains to work.

—Shipments of perishable foodstuffs to many major cities would be halted at once.

—Actual food shortages could soon occur in several cities.

—Some health hazards would develop. For example, supplies of chlorine used to purify community water supplies would grow short.

—The coal mining industry, with 140,000 workers, would cease operations almost at once.

—Many other industries which rely heavily on the railroads—such as metal mining, steel, chemicals—would be badly crippled and soon begin to close down.

—For a week or more most factories could operate from their inventories. Soon, shortages and bottlenecks would begin to curtail production drasti-

cally. A spreading epidemic of lost production and lost jobs would sweep through the Nation.

—A one-month strike would reduce the gross national product by 13 percent. That would be nearly four times as great as the total decline that occurred in the Nation's worst post-war recession. It would drive the unemployment rate up to 15%—for the first time since 1940—putting millions of workers out of jobs.

In short, a railroad strike would affect every man, woman and child in this Nation. It would increase the cost of living. Each day the strike continued would bring pyramiding losses in goods, services and income—losses which can never be fully regained. A prolonged strike could well break the back of the Nation's stable prosperity for some period to come.

Beyond this, there remains the impact of a rail strike on defense production, and particularly on our 500,000 brave servicemen in South East Asia.

For example:

—Forty percent of the total freight shipped by the Defense Department is moved by the Nation's railroads. A strike would materially disrupt these vital operations.

—Shipments of ammunition will be critically affected. During April, 210,000 tons of ammunition are scheduled to move to ports for overseas shipment. About 175,000 tons are going by rail.

—Production of ammunition will be hindered. Sulphuric acid, a key ingredient for ammunition, moves only by rail car.

—The movement of gasoline and jet fuel for our combat and transport aircraft heavily depends on railroads.

—The M–48 tank and other heavy military equipment used in Viet-Nam, can be shipped only by rail.

—Strategic missiles such as Polaris and Minuteman are moved by specially equipped rail cars.

CONCLUSION

The costs are so heavy and the consequences so dire that there have been only two brief national rail strikes in this century. This is a clear example of the responsibility—and restraint—which can be displayed by railroad labor and management.

Almost three years ago to the day the Nation was faced with an equally grave railroad strike. Then, both the carriers and the unions placed the national interest first. The strike was postponed and a fair and just settlement reached.

On that occasion I said:

"This agreement is American business and American labor operating at its very best, at the highest levels of public responsibility. This is the face of American industrial democracy that we can proudly show to the entire world, that free enterprise, free collective bargaining, really works in this country, and that the needs and the demands of the people's interest are understood and those needs and those demands come first."

It is my fervent hope—and I believe that I speak for all Americans—that the parties to the railway dispute which now threatens the Nation arrive at a just settlement, for "He that keepeth understanding shall find good."

More drastic measures could have been proposed. But I believe that the parties should be given one more opportunity—a last clear chance—to resolve their differences, in their own way, in the spirit of free collective bargaining.

As President I have the firm responsibility to represent this Nation at the meeting of the heads of Latin American States at Punta del Este. The commitment to go to Punta del Este was made many months ago—and it must be honored.

But as President, I also have the clear responsibility to take action that will assure uninterrupted rail service for our Nation. I am taking that action in submitting this Joint Resolution today and requesting prompt action by the Congress.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *April 10, 1967.*

JOINT RESOLUTION To extend the period for making no change of conditions under Section 10 of the Railway Labor Act applicable in the current dispute between the railroad carriers represented by the National Railway Labor Conference and certain of their employees

Whereas disputes exist between the carriers represented by the National Railway Labor Conference and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employees' Department, AFL–CIO, labor organizations; and

Whereas the President of the United States, pursuant to the provisions of section 10 of the Railway Labor Act, by Executive Order No. 11324 of January 28, 1967, created an Emergency Board to investigate these disputes and report its findings; and

Whereas the Emergency Board has reported and the stautory period for making no change of conditions, as extended by agreement of the parties, is about to expire, without the parties having resolved the issues in dispute, thereby continuing to threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation services; and

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained; and

Whereas the Congress finds that an emergency measure is essential to security and continuity of transportation services by such carriers; and

Whereas it is desirable to achieve the above objectives in a manner conducive to resolution of the disputes through collective bargaining: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the provisions of the final paragraph of Section 10 of the Railway Labor Act (45 U.S.C. 160) shall be extended for an additional period with respect to the disputes referred to in Executive Order No. 11324 of January 28, 1967, so that no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which such disputes arose prior to 12:01 a.m. of May 3, 1967.

Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

No. 169

APPOINTED BY EXECUTIVE ORDER NO. 11324 DATED JANUARY 28, 1967, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To investigate and report its findings to the President of unadjusted disputes between the carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees, functioning through the Railway Employees' Department, AFL–CIO.

(National Mediation Board Case No. A–7949)

WASHINGTON, D.C.
MARCH 10, 1967

LETTER OF TRANSMITTAL

WASHINGTON, D.C., *March 10, 1967.*

THE PRESIDENT
The White House, Washington, D.C.

DEAR MR. PRESIDENT: The Emergency Board which you created on January 28, 1967, by Executive Order 11324, pursuant to Section 10 of the Railway Labor Act, as amended, has the honor to submit its report and recommendations.

This Board was appointed to investigate disputes between the carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees, functioning through the Railway Employees' Department, AFL–CIO, and represented by the following unions:

International Association of Machinists and Aerospace Workers;
International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers;
Sheet Metal Workers' International Association;
International Brotherhood of Electrical Workers;
Brotherhood of Railway Carmen of America;
International Brotherhood of Firemen and Oilers.

Hearings have been held, and the evidence and argument of the parties considered.

Our recommendations for an equitable settlement of this dispute are submitted herewith.

The Board acknowledges with deep appreciation the able assistance during the hearings and in its subsequent deliberations of Beatrice Burgoon, Lily Mary David and Lary Yud, staff members of the Department of Labor.

Respectfully,

(S) DAVID GINSBURG, *Chairman.*
(S) FRANK J. DUGAN, *Member.*
(S) JOHN. W. MCCONNELL, *Member.*

I. HISTORY OF THE EMERGENCY BOARD

Emergency Board No. 169 was created by Executive Order 11324, issued January 28, 1967, pursuant to Section 10 of the Railway Labor Act, as amended, to investigate and report its findings of unadjusted disputes between the railroad carriers represented by the National Railway Labor Conference (comprised of the Eastern, Western, and Southeastern Carriers' Conference Committees), and certain of their employees represented by six shopcraft unions operating through the Railway Employes' Department, AFL–CIO.[1]

The President appointed the following as members of the Board: David Ginsburg, an attorney from Washington, D.C., Chairman; Frank J. Dugan, Professor of Law, Georgetown University Law Center, Member; John W. McConnell, President of the University of New Hampshire, Member.

The Board convened in Washington, D.C., on February 1, 1967, to hear the opening statements of the parties and to discuss procedures. Public hearings were held for seven days between February 1 and February 9 at Washington, D.C. During the hearings the parties were given full and adequate opportunity to present evidence and argument before the Board. To assist the Board in identifying and clarifying issues, the parties willingly made themselves available to the Board for numerous informal discussions.

The record of the proceedings consists of 1,073 pages of testimony and 36 numbered exhibits. The Board has made clear that its report to the President would be based upon that record.

Subsequent to the creation of the Board, the parties by stipulation, approved by the President, agreed to extend the time within which the Board must report its findings to the President until March 13, 1967, and to extend the period of statutory restraint until April 12, 1967.

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[1] The text of the Executive Order is contained in Appendix A. The six labor organizations are the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; and International Brotherhood of Firemen, Oilers, Helpers, Round House and Railway Shop Laborers.

II. BACKGROUND OF THE DISPUTE

The carriers before the Board comprise almost the entire Class I railroad industry and account for well over 95 percent of the total railroad mileage in the United States.[2]

The six organizations represent approximately 137,000 shopworkers employed by the Class I railroads. These employees consist of journeymen mechanics, their helpers and apprentices, powerhouse employees and railway shop laborers. It is the primary responsibility of these employees to inspect, maintain, and repair all types of locomotives, freight and passenger cars, all work equipment such as cranes, hoists, work cars, wreck equipment, and the shop machinery and equipment. They also operate and maintain the stationary power plants and power stations where electricity is generated to furnish power and heat to the shops and buildings.

On May 17, 1966, the organizations served notices under Section 6 of the Railway Labor Act, as amended, requesting a general increase of 20 percent in all wage rates and differentials, the establishment of procedures for periodic cost of living adjustments, shift differentials, additional overtime pay, vacation and paid holiday improvements, jury duty pay and the establishment of a 30-minute paid lunch period on each shift.[3]

The request was that all changes be made effective January 1, 1967. On the first day of the hearings, the organizations officially withdrew their paid lunch period proposal.

Subsequently, in June 1966, various proposals were served by the individual carriers on the organizations. Among the changes requested were a revision of the vacation agreement, elimination of certain craft jurisdictional barriers, a revision of the rules governing the work of car inspectors, greater freedom to institute technological, operational and organizational changes, establishment of entrance rates, compulsory retirement age limits, revision of the 40-hour workweek rules, establishment of a rule to prohibit duplicate punitive holiday payments, elimination of the advance notice requirement for emergency force reductions and the establishment of a rule that would require adherence to the common law rule of damages for breach of collective bargaining contracts.[4] The carriers subsequently withdrew their car inspector proposal.

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[2] The carriers who are parties to this dispute consist of 138 line-haul railroads and terminal and switching companies. They function for national collective bargaining purposes through the National Railway Labor Conference and the three regional Carriers' Conference Committees.

[3] The organizations' proposals are contained in Appendix B.

[4] The carriers' proposals are contained in Appendix C.

Conferences were held between the individual carriers and the organizations; no agreements were reached; both the carriers and the organizations thereupon authorized national handling of the dispute.

Negotiations on a national level began on September 28, 1966, in Washington, D.C. Following a two-day meeting in Chicago beginning October 11, 1966, the parties agreed to seek the assistance of the National Mediation Board. The NMB docketed the case as A–7949. Mediation commenced October 19, 1966, and continued intermittently through January 6, 1967, when the NMB advised the parties that its mediation efforts had been unsuccessful and proffered arbitration. The carriers accepted the NMB's request; the organizations declined. On January 13, 1967, the National Mediation Board notified the parties that it was formally terminating its services.

On October 25, 1966, the organizations had polled their members and received strike authorization in the event a satisfactory settlement was not negotiated. A legal and peaceful withdrawal from service was set for February 13, 1967.

The NMB then notified the President that in its judgment this dispute threatened to substantially interrupt interstate commerce so as to deprive the country of essential transportation service. The President thereupon created this Emergency Board. Hearings began in Washington, D.C., on February 1, 1967.

III. PROCEDURES

The Board warmly commends the parties and counsel for their full cooperation in providing the facts of the case and the arguments of the parties in record time. The Board has given considerable attention in these proceedings to the matters of procedure, and has carefully reviewed the observations and suggestions of prior Emergency Boards. As a possible aid to future boards, we list the following procedural steps taken to expedite the hearing:

Improving the Hearing Procedures

(1) A prehearing conference was held during which the Chairman suggested several ways to reduce the time spent in hearing and to sharpen the issues and argument for the Board.

(2) Opening statements of the parties were relatively brief; main proposals and lines of argument were clearly outlined.

(3) Facts were presented through a limited number of carefully prepared exhibits.

(4) The parties were expressly requested not to read prepared exhibits but, where necessary, to summarize them.

(5) The volume of historical information was reduced and should be kept to a minimum.

(6) The examination of witnesses was confined to major issues and matters directly pertinent to the more important specific proposals and evidence.

(7) Throughout the hearing, the parties made themselves available to the Board for numerous informal discussions; this cooperation markedly assisted the Board in identifying and clarifying the issues and the positions of the parties.

(8) At the conclusion of the hearing, the Chairman asked the parties to prepare a summation and brief in the form of proposed findings and recommendations by the Board. In getting at the essence of each proposal and narrowing the areas of difference between the parties, this device proved invaluable.

(9) During the hearings and throughout the Board's deliberations, a representative of the Department of Labor was in constant attendance as liaison between the Board, the parties, and others, and among the members of the Board. This service was invaluable.

Furthering Negotiation by the Parties

As the case developed it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board. We believe this is generally the case in proceedings before Emergency Boards. In this regard, Boards appointed under the Railway Labor Act face a different situation from those appointed under the Taft-Hartley Act; under the latter, bargaining has taken place and the parties come to the public tribunal only with the hard core of their dispute. In transportation cases, experience shows that the parties begin to negotiate only after an Emergency Board has been appointed, and often only after a report has been submitted to the President. We believe that continuation of this practice will defeat other attempts to improve labor relations in the railroad industry. The Board, therefore, recommends for consideration by appropriate authorities the following proposals designed to expedite the settlement of disputes under the Railway Labor Act.

(1) There should be established a longer period of statutory restraint subsequent to the submission of an Emergency Board's report in order to give the parties additional time to negotiate a settlement. The Board notes that under the Taft-Hartley Act, the parties have a period of 80 days after the Board report is submitted to the President.

(2) The President should have the power to extend the initial period of statutory restraint for an additional 30 days if, in his judgment (a) the parties are making substantial progress toward a settlement, or (b) important developments are likely to occur within the additional 30-day period that would materially influence a settlement.

(3) Recognizing that agreement by the parties is preferable to recommended settlements, Emergency Boards should, whenever possible, refrain from specific substantive recommendations and instead suggest procedures which would lead the parties themselves to resolve the issues.

The Board further recommends that carriers and unions, in cooperation with the National Mediation Board and the Department of Labor, give greater attention to the methods for achieving speedier and more effective settlement of disputes submitted to Emergency Boards.

IV. THE ISSUES

The organizations originally raised nine issues; subsequent proposals from the carriers raised an additional ten issues.[5] None of these 19 issues was resolved by negotiation or mediation. Each party withdrew one proposal, thus leaving 17 outstanding issues on which material was supplied for the record.

During the hearings it became apparent that there were two aspects to the general wage issue, namely, the amount of any across-the-board increase and the establishment of greater differentials between the skilled and unskilled in the several crafts within the industry and, at the same time, the establishment of comparability between wages of the shop crafts and wages for similar work outside the railroad industry.

This Board has carefully considered each unresolved issue.

V. THE GENERAL WAGE INCREASE

The organizations seek a general wage increase of at least 6 percent for all employees for the year beginning January 1, 1967. The carriers, having settled on a 5 percent basis with nearly 65 percent of railroad employees, urge that the 5 percent pattern be retained.

Area of Agreement

On the general wage rate issue the broad area of agreement between the parties is heartening and impressive. The formal demand of the organizations for a 20 percent general increase was reduced to 7 percent during the hearings and further adjusted in the Brief for the Employees submitted to the Board. Both parties cited and relied on the 1967 Annual Report and earlier reports of the President's Council of Economic Advisers. Both parties agreed that wage increases should be geared not to productivity gains in particular industries but to the trend productivity of the national economy. Most

[5] See Appendices B and C.

important, both parties explicitly acknowledged their own and the public interest in arriving at noninflationary wage settlements.

Primary Importance of Wage Compression Issue

Although we deal first with the general wage question, we regard it as subordinate to the issue of wage compression. The Board believes that at the core of the differences between the organizations and the carriers is an industry practice, terminated in 1964, of negotiating flat cents per hour across-the-board wage adjustments for all employees. One consequence was that wage differentials between the more and the less skilled within the industry were unduly narrowed; another was that wage rates of the higher skilled shopcraft employees lagged behind the gains of employees of comparable skills in other industries. At this stage the Board merely concludes that an increase in general wage rates would be neither an effective nor an appropriate response to these two aspects of wage compression. Specific recommendations covering existing inequities and disparities are set forth in the following section of this report.

The 5 Percent Level

Whether a 5 percent general wage increase is economically justifiable is not in issue before the Board; the carriers have already made a 5 percent offer and it would be unrealistic for the Board to attempt to reexamine it.

On the general wage rate issue we recommend that the shopcraft employees accept a 5 percent increase for 1967 partly because most of the railroad employees have already settled on this basis but primarily because a general wage increase of more than 5 percent is not justified by the record before us. Although we do not question the right of the federated shopcrafts to seek a higher rate, we believe that a settlement above the 5 percent level would probably nurture employee dissatisfaction and catch-up demands, and hamper collective bargaining and the negotiation of future conrtacts.

Comparative Wage Rate and Earnings Data

The Board has carefully reviewed the more recent data made available to it comparing the earnings of railroad nonoperating employees with the earnings of production workers in manufacturing industries. These data show that in recent years the earnings of both groups have moved in the same direction and at about the same pace. We believe that for 1967 a 5 percent adjustment in wage rates will keep the earnings of the shopcraft employees well abreast of the general increases of workers outside the railroad industry.

If we examine the estimated annual rates of increase in hourly costs of wage and benefit changes negotiated in the key 1966 collective

bargaining settlements, we find that 58 percent will receive increases at an annual rate of less than 5 percent.

If we consider wage rates only—the issue before us—we find that the median annual rate of increases to go into effect during the life of major collective bargaining agreements negotiated during 1966 is 3.7 percent. Recently published data (Department of Labor release, February 3, 1967, "Major Collective Bargaining Agreements Negotiated During 1966") make clear *that about 85 percent of the 2.75 million workers covered by these settlements will receive annual increases of less than 5 percent.*

Even in the last quarter of 1966 important agreements were reached that provided annual wage adjustments considerably below the 5 percent level. The three-year contracts negotiated in the electrical equipment industry provide 4 percent first-year wage increases.

For 1966 the most common deferred increases were 3, but less than 3½ percent or 10 but less than 11 cents (for approximately 700,000 workers in the automobile, farm and construction equipment industries).

For 1967 the Bureau of Labor Statistics reports that deferred increases will most commonly average 2 to 2½ percent or 7 to 9 cents per hour. Increases of 2 percent but less than 2½ percent will be effective in 1967,

- for approximately 150,000 aerospace workers;
- for 450,000 workers in basic steel, where increases will range from 6 to 12 cents and average about 7.4 cents.
- For 50,000 aluminum workers, whose increases will range from 8½ to 9 cents; and
- for 50,000 Atlantic and Gulf Coast longshore employees who will receive increases of about 2.2 percent (8 cents an hour).

Increases of about 3 percent will go to approximately 200,000 union employees of General Electric Co. and Westinghouse Electric Corp. and to 50,000 shipbuilding workers whose increases will be from 7 through 10 cents.

For the shopcraft employees of the railroads, however, the 5 percent proposed adjustment will average 15 cents per hour.

Although some increases in agreements entered into or effective in 1967 will exceed 5 percent, particularly for employees in the air line and construction industries, the data in the record make clear that the annual rate of increase in 1967 for all industries and for manufacturing industries will be less than 5 percent.

Real Earnings, Duration and the Cost of Living Clause

During the three-year period from December 1963 through December 1966 the average straight-time hourly earnings of the shopcraft

employees increased from $2.62 per hour to $2.90 per hour with an average annual increase of 3.4 percent. During that period the average straight-time hourly earnings of production workers in durable goods industries increased from $2.59 to $2.81 an hour with an average annual increase of 2.8 percent.

During the same December to December three-year period the Consumer Price Index increased at an average annual rate of 2.1 percent (1.1 percent in 1963–64; 2.0 percent in 1964–65; 3.3 percent in 1965–66).

To us this record means that the real earnings of the shopcraft employees have increased during this period at a rate greater than that for workers generally in the economy. Even if the Consumer Price Idex goes up as much as another 2.5 percent during 1967, the shopcraft employees—given a 5 percent general wage increase—will nevertheless still achieve substantial gains in real earnings.

It is unnecessary to deal further with the problem of real wages since the Board limits its recommendation to a two-year contract with a reopener for general wages at the end of the first year. The organizations would prefer a longer term; the carriers would prefer to continue the one-year 1967 pattern, stressing the existence of economic uncertainties.

We refrain from recommending a fixed agreement of longer duration not because of uncertainties in the current economic indicators, but because it may be wise to reexamine the issue of general wage rates as steps are being taken to remedy the larger problem of wage compression.

The general wage increases would be effective as of January 1, 1967.

Since the organizations and the carriers will be free to reassess their respective interests as and when the actual results for 1967 become available, we need not now consider the troublesome request for an arrangement which would automatically tie wage rates to changes in the Consumer Price Index.

VI. THE WAGE COMPRESSION OF SKILLED SHOPCRAFT EMPLOYEES

For thirty years the unions have insisted on uniform cents-per-hour wage increases for all shopcraft employees. The result has been to compress severely the wage differentials between skilled and unskilled shopcraft employees and to widen the wage disparity between skilled workers in railroad shops and skilled workers in other indus-

tries. Both parties agree that there is a serious wage compression and that it cannot be corrected in a single step.[6]

Prior Emergency Boards have already recognized that the wage scale is compressed.[7] They have concluded that the only fundamental way to deal with interclass and intercraft inequities and with wage rate compression is through a comprehensive job evaluation study. Indeed, it has been almost a half century since a systematic evaluation and classification was made of the various skilled crafts in the railroad industry. Attempts to adjust the wage structure in a piecemeal fashion merely tend to make more of a patchwork of pay relationships. As the unions acknowledge, "the precise extent of the gap is admittedly in dispute because of the differences between the parties over skill comparisons and cannot be determined with confidence by this or any other Emergency Board."[8] An equitable adjustment beyond the pattern settlement would not violate existing Administration policy against inflationary wage increases because the type of adjustment here sought is compatible with the principles of wage equity stated by the Council of Economic Advisers.[9]

An inequity thus exists, but no data are available to this Board which would permit it to establish precisely the proper wage differentials between the skilled and the unskilled in the railroad shops, and proper wage relationships between journeymen shopcraft employees and similarly skilled workers in outside industry. We recommend a comprehensive job evaluation study along the following lines:

1. *Escrow Fund*

We recommend that the parties forthwith begin negotiations to determine the amount of money to be placed in escrow by the carriers as a "down payment" to correct existing wage inequities between the skilled and unskilled shopcraft employees. These negotiations should be concluded within 60 days from the date of this report or within such other period as the parties may mutually agree. If the parties are unable to agree on the amount to be placed in escrow the Secretary of Labor should be authorized to designate a Board for final and binding arbitration or establish an alternate procedure to set the amount.

2. *Procedures To Establish a Job Evaluation Study*

To expedite the job evaluation study the Board recommends that the parties promptly consult with the Secretary of Labor and arrive

[6] "We admit that full correction of what thirty years created cannot be accomplished at one time and that completion would necessarily have to be phased out over a reasonable period of years." See Brief for Employees, p. 16.

[7] Emergency Board 145, pp. 6–8; Emergency Board 159, pp. 10–11, 13–15.

[8] See Brief for Employees, p. 35.

[9] See Brief for Employees, p. 16.

at an agreement on procedures within 60 days from the date of this report. If the parties fail to agree on procedures the Secretary of Labor should be authorized to designate a Board to determine them through final and binding arbitration.

The scope of the study should be broad and have as its purpose rationalization of the wage structure within the railroad shops including a study of intercraft and interclass wage inequities as well as a meaningful comparison with similar jobs in outside industry. The study should be completed within 120 days from the date the study begins, or such longer period as the parties may mutually agree.

If the job evaluation study fails to establish acceptable wage differentials, the parties should agree to final and binding arbitration through a Board appointed by the Secretary of Labor, and the terms of the job evaluation agreement should so provide.

3. *Adoption of the Incumbent Rule*

Industries which have revised their wage structures have customarily adopted a "red circle" or "incumbent" rule under which no employee suffers loss as a result of the job evaluation study. We recommend that the parties adopt this rule.

4. *Crossing Craftlines*

The Board believes that job evaluation should not at this time include study of crossing craft lines. The Board has not sought to determine the merits of this proposal by the carrier; it merely indicates its opinion that a study of this sort is presently not feasible.

5. *Retroactivity*

To deal equitably with employees who will receive higher wages as a result of the job evaluation study the distribution from the "escrow" fund, as a first step to correct wage inequities, should be made retroactive to July 1, 1967.

6. *Cost*

The cost of the job evaluation study should be borne by the parties.

7. *Speed*

The Board believes that speed is essential in this process of rationalizing the wage structure of shopcraft employees, and it strongly urges all parties, in the public interest, to proceed as expeditiously as possible.

VII. OTHER ISSUES

Numerous other proposals of a fringe benefit nature were presented by the parties.[10]

[10] See Appendices B and C.

Negotiations between the carriers and the nonoperating unions (other than those before this Board) had resulted in a modification of the period of service required for 3 weeks vacation, and the withdrawal of all other issues by both carriers and unions. Since this agreement by the parties established a pattern for the nonoperating employees of the industry, the Board recommends that the present rule be modified to grant three weeks vacation after 10 years of service, rather than after 15 years of service. The Board recommends that all other proposals by both parties be withdrawn. This recommendation does not constitute a judgment on the merits of these proposals, but in the absence of a clear showing of an existing inequity, the Board adheres to the pattern arrived at by the carriers and other nonoperating unions.

VIII. DURATION

The duration of the agreement has already been considered by the Board in its recommendations on the general wage issue.

To summarize, the Board recommends that the agreement should be on two-year duration running from January 1, 1967, to December 31, 1968, with the understanding that the general wage issue may be reopened on December 31, 1967.

IX. CONCLUSION

It is the Board's considered judgment that the findings and recommendations set forth in this report provide a fair and equitable basis upon which the parties should be able to reach agreement in the settlement of this dispute.

Respectfully submitted,

(S) David Ginsberg,
DAVID GINSBERG, *Chairman.*

(S) Frank J. Dugan,
FRANK J. DUGAN, *Member.*

(S) John W. McConnell,
JOHN W. MCCONNELL, *Member.*

APPENDIX A

EXECUTIVE ORDER NO. 11324

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the carriers represented by the National Railway Labor Conference, designated in List A attached hereto and made a part hereof, and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employes' Department, AFL–CIO, labor organizations; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to the disputes within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which the disputes arose.

Signed LYNDON B. JOHNSON.

THE WHITE HOUSE,
January 28, 1967.

APPENDIX B

ORGANIZATIONS' PROPOSALS

ARTICLE I—WAGES

A. ADJUSTMENT OF STRAIGHT TIME WAGE RATES AND DIFFERENTIALS

1. *Initial Wage Increase.* Increase all existing straight time rates of pay and differentials for employees covered by the agreement by an amount equal to twenty percent (20%) effective January 1, 1967, applied so as to give effect to this increase in pay irrespective of the method of payment.

2. *Cost-of-Living Adjustment.* Wage rates established in accordance with paragraph 1 of this Part A shall be subject to a cost-of-living adjustment, effective April 1, 1967, July 1, 1967, October 1, 1967, January 1, 1968, and each quarter thereafter. Such cost-of-living adjustment shall be in the amount of one cent (1¢) per hour for each three-tenths (.3) of a point change in the Bureau of Labor Statistics Consumer Price Index for the months of March, June, September and December respectively, above the base index figure for December 1966 (1957–59=100), except that it shall not operate to reduce wage rates below those established under paragraph 1 of this Part A.

B. INCREASE IN OVERTIME RATES

Effective January 1, 1967, all overtime rules in existing agreements, including but not limited to those requiring payment for time in excess of eight hours in a calendar day or in any other twenty-four hour period, or in excess of forty hours or on more than five days in a work week, or on rest days, holidays or vacation days, or for calls and change of shifts, shall be revised to provide for payment at twice the straight-time rate, except that where rules now in effect require payment at twice the straight-time rate, the rate shall be increased to three times the stright-time rate.

C. SHIFT DIFFERENTIALS

In addition to all other wage payments required effective January 1, 1967, all employees shall be paid shift differentials of eighteen cents (18¢) per hour for work on any shift beginning at or after 12:00 noon and before 5:00 p.m., and twenty-five cents (25¢) per hour for work on any shift beginning at or after 5:00 p.m. and before 6:00 a.m.

ARTICLE II—VACATIONS

SECTION 1. Article 1 of the Vacation Agreement of December 17, 1941, as amended by the Agreement of August 21, 1954, the Agreement of August 19, 1960, and the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby further amended to read as follows:

(a) Effective with the calendar year 1967, an annual vacation of ten (10) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred twenty (120) days during the preceding calendar year.

(b) Effective with the calendar year 1967, an annual vacation of fifteen (15) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred ten (110) days during the preceding calendar year and who has five (5) or more years of continuous service, not necessarily consecutive.

(c) Effective with the calendar year 1967, an annual vacation of twenty (20) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has ten (10) or more years of continuous service, not necessarily consecutive.

(d) Effective with the calendar year 1967, an annual vacation of twenty-five (25) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has fifteen (15) or more years of continuous service, not necessarily consecutive.

(For the purpose of computing the length of vacation due under paragraphs (a), (b), (c) and (d) of this Section, it is understood that any calendar year in which an employee qualifies for a vacation in the succeeding year, shall be counted as a year of service.)

(e) Paragraphs (a), (b), (c) and (d) hereof shall be construed to grant to weekly and monthly rated employees, whose rates contemplate more than five (5) days of service each week, vacations of two, three, four or five work weeks.

(f) Service rendered under agreements between a carrier and one or more of the Non-operating Organizations parties to the General Agreement of August 21, 1954, the General Agreement of August 19, 1960, or to the General Agreements of November 20 and 21, 1964 and February 4, 1965, or to this Agreement shall be counted in computing days of compensated service and years of continuous service for vacation qualifying purposes under this Agreement.

(g) Calendar days in each current qualifying year on which an employe renders no service because of his sickness, injury or disability shall be included in computing days of compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of ten (10) such days for an employe with less than three (3) years of service; a maximum of twenty (20) such days for an employee with three (3) but less than fifteen (15) years of service; and a maximum of thirty (30) such days for an employee with fifteen (15) or more years of service with the employing carrier.

(h) In instances where employees have performed service in five (5) months with the employing carrier, or have performed, in a calendar year, service sufficient to qualify them for a vacation in the following calendar year, and subsequently become members of the Armed Forces of the United States, the time spent by such employes in the Armed Forces will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier.

(i) An employe who leaves carrier's service and has no seniority date and no rights to accumulate seniority, who renders compensated service on not less than one hundred twenty (120) days in a calendar year and who returns to service in the following year for the same carrier will be granted the vacation in the year of his return. In the event such an employe does not return to service in the following year for the same carrier he will be compensated in lieu of the vacation he has qualified for provided he files written request

therefor to his employing officer, a copy of such request to be furnished to his local or general chairman.

SECTION 2. Section 3 of Article 1 of the Agreement of August 21, 1954, is hereby further amended effective January 1, 1967, to read as follows:

When any of the recognized holidays, as defined in Article III of this notice, occurs during an employe's vacation period, the following shall apply:

(a) If the holiday falls on a work day of the employe's job assignment in the case of an employe having a job assignment, or on a work day of the position on which the employee last worked before the holiday in the case of an employee not having a job assignment, then:

(1) If such employe is not assigned in any manner to work on the holiday shall not be considered as a vacation day of the period for which the employe is entitled to vacation, such vacation period shall be extended accordingly, and the employee shall be entitled to his holiday pay for such day.

(2) If such employe is assigned in any manner to work on the holiday, the holiday shall be considered as a vacation day of the period for which the employe is entitled to vacation and the employe shall be entitled to a straight time day's pay plus pay at the applicable overtime rate for the job assignment to work on such holiday.

(b) If the holiday falls on a rest day of the employe's job assignment in the case of an employe having a job assignment, or on a rest day of the position on which the employe last worked before the holiday in the case of an employe not having a job assignment, the holiday shall not be considered as a vacation day of the period for which the employe is entitled to vacation and the employe shall be entitled to his holiday pay for such day.

SECTION 3. Article 15 of the Vacation Agreement of December 17, 1941, as amended by the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby amended to read as follows:

Except as otherwise provided herein, this Agreement shall be effective as of January 1, 1967, and shall be incorporated in existing agreements as a supplement thereto, and shall be in full force and effect thereafter, subject to change upon written notice by any carrier or organization party hereto, of desire to change this Agreement, in accordance with the provisions of the Railway Labor Act, Amended.

ARTICLE III—HOLIDAYS

Article II of the Agreement of August 21, 1954, as amended by the Agreement of August 19, 1960, and the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby amended to read as follows:

SECTION 1. (a) Effective January 1, 1967, each hourly, daily or weekly rated employe shall be guaranteed 8 hours' pay at the pro rata hourly rate of the position on which he last worked before the holiday in addition to any other payments required for each of the following nine enumerated holidays:

New Year's Day
Washington's Birthday
Good Friday
Decoration Day
Fourth of July
Labor Day
Thanksgiving Day
Christmas
Employe's Birthday

(b) This Article does not disturb agreements now in effect under which another holiday has been substituted for one of the above-enumerated holi-

days. This Article shall be applicable to any day which by agreement or practice has been designated as a holiday in addition to those enumerated above; it shall be applicable to any day which by agreement or practice is observed by the employe instead of the day on which the holiday occurs (holidays enumerated above or holidays in addition thereto designated by agreement or practice or holidays substituted for one of the holidays enumerated above.)

SECTION 2. Monthly rates shall be adjusted by adding the equivalent of 8 pro rata hours to the annual compensation (the monthly rate multiplied by 12) and this sum shall be divided by 12 in order to establish a new monthly rate. The sum of presently existing hours per annum plus 8 divided by 12 will establish a new hourly factor for wage adjustments; overtime rates will be computed on the basis of such hours minus the number of holiday pay hours included in such computation. Each monthly rated employee shall receive a day off without reduction in his monthly compensation on the above enumerated holidays (or on the next succeeding work day if the holiday falls on a rest day of his work week) or, if required to work on such day, shall be compensated therefor at the applicable overtime rate of compensation for a minimum of eight hours in addition to his monthly compensation.

SECTION 3. Each hourly, daily and weekly rated employe shall qualify for the holiday pay provided in Section 1 hereof if compensation paid by the carrier is credited to him at any time during the sixty calendar days preceding the holiday or holidays, unless the employee was assigned to work on the work day of his work week immediately preceding or following the holiday and he fails to report for work on such day without good cause. Good cause shall include sickness, injury, disability, vacation, leave of absence, and any other reasonable cause for failure to report for work.

SECTION 4. Nothing in this Article shall be construed to reduce the number of holidays in any case where by agreement or practice holiday have been designated in addition to those enumerated in Section 1 hereof.

SECTION 5. Whenever any hourly, daily or weekly rated employe is required to work on a holiday to which Section 1 of this Article applies, he shall be compensated at the applicable overtime rate for the position worked for a minimum of eight (8) hours, in addition to the compensation provided for in Section 1.

SECTION 6. An employe working at a location away from his residence may, by giving reasonable notice to his supervisor, have the day immediately preceding the first day during which he is not scheduled to work following his birthday considered as his birthday for the purposes of this Article. An employe whose birthday falls on February 29, may, on other than leap years, by giving reasonable notice to his supervisor, have February 28 or the day immediately preceding the first day during which he is not scheduled to work following February 28 considered as his birthday for the purposes of this Article. If an employe's birthday falls on one of the other holidays named in Section 1 of this Article, he may, by giving reasonable notice to his supervisor, have the following day or the day immediately preceding the first day during which he is not scheduled to work such holiday considered as his birthday for the purposes of this Article.

ARTICLE IV—PAY FOR JURY DUTY LEAVE

Effective January 1, 1967, revise and supplement existing agreements to provide that an employe who is called for jury duty and reports shall do so without loss of compensation or any other benefits provided under the existing agree-

ments for each day he reports for jury duty as though he had rendered compensated service for the company.

ARTICLE V—PAID LUNCH PERIOD

Effective January 1, 1967, revise and supplement existing agreements to provide a paid thirty-minute lunch period for all employes regardless of where employed within an eight hour tour of duty.

ARTICLE VI—SAVINGS CLAUSE

The organizations reserve the option to preserve existing rules or practices on any individual carrier or carriers which they consider more favorable than any rule resulting from negotiations on the foregoing proposals.

APPENDIX C

CARRIERS' PROPOSALS

Classification of Work

All agreements, rules, regulations, interpretations and practices, however established, governing the classification of work of mechanics, helpers and apprentices of employees represented by the following organizations:

International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers

shall be merged into three classification of work rules. The first rule shall govern the work of all mechanics, the second the work of all helpers and the third the work of all apprentices. Thereafter, any work covered by such a consolidated rule may be assigned to and performed by any employee of the class to which the rule is applicable, irrespective of craft.

The number of mechanics, helpers and apprentices in the craft of machinist, sheet metal worker, blacksmith, boilermaker and electrician to be employed shall be determined by the carrier.

Car Inspectors

All agreements, rules, regulations, interpretations and practices, however established, which restrict the character of service of car inspectors are hereby eliminated. Car Inspectors may hereafter be required to perform any work which may be assigned to them provided such work is included in the classification of work rules applicable to carmen.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Modernization of Agreements to Meet Changing Conditions

(a) Eliminate all agreements, rules, regulations, interpretations and practices, however established, which in any way handicap or interfere with the carrier's right to:

(1) Transfer work from one facility or location to another facility or location;

(2) Partially or entirely abandon any operation or to consolidate facilities or services heretofore operated independently;

(3) Merge or coordinate in whole or in part two or more carriers;

(4) Contract out work;

(5) Lease or purchase equipment or component parts thereof, the installation, operation, maintenance or repairing of which is to be performed by other than employees of the carrier;

(6) Voluntarily or involuntarily discontinue contracts whereunder a carrier perfroms service for another carrier or for any other party;

(7) Effect technological changes;

(8) Install labor saving equipment and machinery;

(9) Trade in and repurchase equipment or exchange units;

(10) Make effective any other changes in work assignments or operation;

(11) Consolidate, merge or eliminate one or more seniority rosters or districts required to accomplish or fully realize the benefits of the introduction of a technological, operational or organizational change such as those set forth in items (1) through (10) above.

(b) Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide for any payments to employees adversely affected as a result of the technological, operational or organizational changes set forth in paragraph (a) hereof.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Entering Rates

Establish a rule, or amend existing rules, to provide that entering rates of pay for all basic hourly rated employees, except journeymen mechanics represented by the organizations signatory to this agreement, shall be 80% of the established rates, with increases of four percent (4%) of the established rate effective on completion of the first and each succeeding year of compensated service until the established rate is reached.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Compulsory Retirement

All employees subject to the provisions of this agreement who are seventy years of age or over must retire from active service no later than ninety days subsequent to the effective date of this agreement. Thereafter, the mandatory retirement age shall be progressively lowered until it is 65 in accordance with the following schedule:

	Years of age
July 1, 1967	69
January 1, 1968	68
July 1, 1968	67
January 1, 1969	66
July 1, 1969	65

Existing agreements which provide for retirement at an earlier age than herein set forth remain in full force and effect.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Forty-Hour Work Week Rules

A. Eliminate all agreements, rules, regulations, interpretations and practices, however established, applicable to the forty-hour work week for regularly assigned employees which are in conflict with the rule set forth in Paragraph B.

B. Establish a rule to provide that:

1. The normal work week of regularly assigned employees shall be forty hours consisting of five days of eight hours each, with any two consecutive on nonconsecutive days off in each seven. Such work weeks may be staggered in accordance with the carrier's operational requirements.

2. Regular relief assignments may include different starting times, duties and work locations.

3. Nothing in this rule shall constitute a guarantee of any number of hours or days of work or pay.

4. Work performed by a regularly assigned employee on either or both of his assigned rest days shall be paid for at the straight time rates, unless the work performed on either of the assigned rest days would require him to work more than 40 straight time hours in the work week, in which event the work performed on either of his rest days in excess of 40 straight time hours in the work week shall be paid for at the rate of time and one-half.

5. Any overtime worked by the employee will be computed into straight time hours and be used for purposes of determining when he has completed his forty-hour work week but not for the purpose of determining when the time and one-half rate is applicable.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Prohibition Against Multiple Time and One-Half Payments on Holidays

Under no circumstances will an employee be allowed more than one time and one-half payment for service performed by him on any day which is a holiday.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Emergency Force Reductions

Establish a rule or amend existing rules to provide that in the event of a strike or emergency affecting the operations or business of the carrier, no advance notice shall be necessary to abolish positions or make force reductions.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Monetary Claims

Establish a rule to provide that no monetary claim based on the failure of the carrier to use an employee to perform work shall be valid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so, and no monetary award based on such a claim shall exceed the equivalent of the time actually required to perform the claimed

work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment, and less any amounts received as unemployment compensation.

Existing rules, regulations, interpretations or practices, however established, which provide for penalty payments for failure to use an employee contractually entitled to perform work shall be modified to conform with the foregoing, and where there is no rule, agreement, interpretation or practice providing for penalty pay, none shall be established by this rule.

All agreements, rules, regulations, interpretations and practices, however established, with conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

CARRIERS' VACATION PROPOSAL

1. Effective January 1, 1967, Article 6 of the December 17, 1941 Vacation Agreement, shall be amended to read as follows:

"6. The Carrier may at its discretion blank the position of a vacationing employee or provide a vacation relief worker. If the Carrier decides to blank the position of a vacationing employee, those employees remaining on the job will perform the duties of the vacationing employee without additional expense to the Carrier and such arrangements shall not constitute an infringement of rights of any employees."

Effective January 1, 1967, Article 10(b) of the December 17, 1941 Vacation Agreement, and all interpretations thereof, shall be abrogated.

All existing rules, regulations, interpretations or practices however established, in conflict with the foregoing rule shall likewise be abrogated.

Secretary WIRTZ. The third suggestion is that there be an identification of the cost of the various proposals, as I understand it, before the parties in mediation.

I would be reluctant at this point, without some identification from the committee and the Congressmen as to what proposals you are talking about that to provide that because I don't want to compromise the bargaining.

I will be glad to give you cost figures on whatever proposals you specify.

Mr. DINGELL. We would be pleased to accept your judgment. I believe you would be fully competent to identify these according to their roles.

Secretary WIRTZ. Not a matter of competence. I would hope discretion, Mr. Dingell. I would suggest that we give you for that purpose apprising of the emergency board recommendations so far as that is possible, the mediation panels proposal so far as that is possible, and those are the only ones which I think mediation discretion would permit at this point.

Mr. DINGELL. Mr. Secretary, this legislation imposes what upon the two parties? In the case of the brotherhoods, it compels them to go back to work; am I correct?

Secretary WIRTZ. Yes, sir.

Mr. DINGELL. And it compels them to work at wages with which they do not agree; am I correct?

Secretary WIRTZ. Yes; I think you are. I simply point out that the assumption is that whatever agreement or determination is made in this case would be retroactive.

Mr. DINGELL. What equally burdensome requirement does this legislation impose upon the carriers?

Secretary WIRTZ. As far as the present prospect is concerned?

Mr. DINGELL. As far as the men going back to work. The carriers continue to operate, they continue to be regulated, they continue to receive rates which are fixed by the Interstate Commerce Commission which are compensatory to them; is that correct?

Secretary WIRTZ. I should make clear that the case originates with the serving of a number of notices by both sides so that the effect of the action is to require them both to operate on the basis which both of them object to.

The effect of the legislation is that, absent agreement, in the end they will both be bound by the determination which is entered into as a result of the collective-bargaining process. I think it cuts exactly the same both ways.

Mr. DINGELL. Mr. Secretary, it is, however, provable that the railroads, if they find that they are operating on the basis of the recommendations of the panel at a noncompensatory rate, can then proceed to the ICC and receive rate increases to make the impact of the findings much more satisfactory from their point of view. Isn't that a fact?

Secretary WIRTZ. Yes. I answer that subject, of course, to a——

Mr. DINGELL. Now, will you——

Secretary WIRTZ. I do not answer it without qualification which would compromise the ICC. I only want to include in my answer a

recognition of the authority of the ICC. But the practical answer is "Yes."

Mr. DINGELL. The practical answer is "Yes."

Now, with regard to this matter, Mr. Secretary, it is also a fact, is it not, that the railroads would have no income, were there to be a strike, during this period? Am I correct?

Secretary WIRTZ. During the period of the strike they would have no income?

Mr. DINGELL. That is correct.

Secretary WIRTZ. Certainly not from the operation of the railroads.

Mr. DINGELL. Were there to be a strike, the employees would have the option of entering other industries and continuing their employment; am I correct, Mr. Secretary?

Secretary WIRTZ. That a striking employee would have the option to take another job?

Mr. DINGELL. That is correct.

Secretary WIRTZ. That is correct.

Mr. DINGELL. It is also demonstrable, I believe, Mr. Secretary, that the railroads support compulsory arbitration; is it not?

Secretary WIRTZ. There will be other witnesses before the committee who can better answer that than I can.

Mr. DINGELL. But it is a matter of common knowledge that this fact is so, is it not?

Secretary WIRTZ. I defer.

Is it expected that there will be representatives of the railroads?

The CHAIRMAN. There will be.

Secretary WIRTZ. I would not care to testify about their feeling on that point.

Mr. DINGELL. Has the administration discussed House Joint Resolution 559 with the railroad industry?

Secretary WIRTZ. I am trying to think. It is always dangerous to state a negative. I think the answer is a flat and unqualified negative, so far as I know.

Mr. DINGELL. Would I be able to assume that the industry does support House Joint Resolution 559?

Secretary WIRTZ. I don't know what their position will be. The indication, as I have seen it in the newspapers, is that they will not oppose it.

Mr. DINGELL. Which would mean that we would be passing legislation violently opposed by one side and supported by the other, assuming that statement is correct?

I am not trying to coerce you on this subject.

Secretary WIRTZ. If you are not, I would have to point out the difficulty that I have with the logic. The fact that somebody may support something that may be good and somebody else may support something that may be bad doesn't make it an inequitable rule without going to the qualitative judgment.

Mr. DINGELL. Mr. Secretary, I know my time is most limited but I have one more question to ask at this time, and then I would ask the Chair to grant a further 5 minutes.

Do you make the flat statement that the previous legislation passed by this Congress, Public Law 88–108, was not compulsory legislation?

Secretary WIRTZ. Do I make the statement that it is not?

Mr. DINGELL. Did you make the flat statement that it was compulsory arbitration?

Secretary WIRTZ. My statement is that it turned out in practice to be what I would think was fairly called compulsory arbitration.

Mr. DINGELL. I would like to return to a discussion of the differences between that legislation and the legislation presently before this committee, but I would like first to read from the President's message which was included in the record of that proceeding—

> Unlike compulsory arbitration, this method would preserve and prefer collective bargaining and give precedence to its solutions, but any strike or lockout designed to impose a finding not approved by the parties or the Commission or to oppose one which has been approved would be subject to the remedies of Section 5(8) of the Interstate Commerce Commission Act.

I then would like to read further to you, Mr. Secretary, if I may, in response to a question from Mr. Hall, who previously was our good friend and colleague on the committee:

> Mr. HALL. Thank you, Mr. Chairman.
> Mr. Secretary, I, too, would like to compliment you on the excellence of your presentation today. I believe you stated this morning this bill would not provide for arbitrary or compulsory arbitration.
> Secretary WIRTZ. Yes, sir.

Secretary WIRTZ. Could the record show that the legislation to which Mr. Dingell refers, and I think that is President Kennedy's statement to which he referred, and my testimony——

Mr. DINGELL. I am reading from the message.

Secretary WIRTZ. Mr. Dingell, I must straighten the record out to this extent: You will remember the legislation sent up by the administration and which I testified in support of was rejected by the Congress and it is a different statute that was passed.

Mr. DINGELL. I am aware of this, Mr. Secretary. I want to be perfectly fair with you, and I fully intend to treat the differences at the appropriate time.

Secretary WIRTZ. But what was finally adopted by the Congress I thought at the time could be worked out so it would not be compulsory arbitration and I would say here it turned out to be compulsory arbitration. But President Kennedy's statement was about a different bill.

Mr. DINGELL. Thank you.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Mr. Secretary, the President has from time to time indicated that he is going to recommend to the Congress a permanent legislative remedy to this kind of problem.

I believe if he was going to do this, you would have a significant role in its drafting. Can you tell us whether or not such legislation is going to come to the Hill, and, if so, when?

Secretary WIRTZ. I guess the only thing to which you refer is the President's statement in his state of the Union message in 1966.

Mr. KEITH. Yes.

Secretary WIRTZ. In that he said that he urged consideration by the Congress of measures to meet this kind of problem. That statement has grown in the retelling of it. It is the only statement I know by the President in the area to which you refer.

Your question is whether I am in a position to say to you whether there will come to the Congress proposals for permanent handling of this matter?

Mr. KEITH. Yes.

Secretary WIRTZ. No, I am not. There have been no bones made about it. The President has several times referred to the fact that we have been considering that problem very actively. He has referred pointedly to the fact that not all of us agree within the administration on that. Paralleling that, I would think, the views of this committee and the country.

But I would deal with this important point, that we have it very much under consideration. Whether the President will address formal proposals to Congress or not, I don't know. I can only say to you that there is active consideration of that question.

Mr. KEITH. Certainly in an era such as we now live in, with our military commitments as extensive as they are, there should be some end in sight to the seemingly endless prolongation of labor management disputes in essential industries.

What alternative approaches are there to the one that you have before us today? I understand that a professor from the Yale Law School has suggested that there be some way to penalize or to reward, or to perhaps effect some magnifying of the benefits and payments, to the participants during the waiting period.

Is this a matter on which you are informed?

Secretary WIRTZ. The reference, I think, is to Prof. Neal Chamberlin's suggestion some time ago, not in connection with this case but more generally, that he would favor arrangements which, in effect, have an amount of money set aside covering the mediation period and if they don't reach agreement within the period, they both lose it.

This traces back to a suggestion made by Professor Gobles of Illinois University in 1949. It has had a good deal of discussion. It has always been rejected as being gimmicky. Professor Chamberlin has in his most recent public statement expressed his feeling that it just doesn't work out.

I think one of the principal problems is that it sets up in escrow an amount of money which has a pressure on both parties beyond just the pressure to settle.

It is intriguing, however. I think professional opinion has been to reject it. I don't mean to reject it out of hand.

Mr. KEITH. Can you perhaps suggest to this committee and its members some other imaginative approaches, gimmicks or otherwise, that might shed some light on this?

Secretary WIRTZ. There is a group of suggestions, Mr. Keith, with quite a variety about them. The other one in the same category which has attracted most attention, I think, is a proposal that at some point both parties should state their final position, and that the third party should be required to take one of those positions or the other, whichever the third party thinks is the best.

That, too, has been developed with various refinements. I think, again, without attracting any substantial support.

I have come in my own thinking to the conclusion that there just is not a patentable answer, and that the plain facts are that there is an assumption in the country as a whole that there is something which permits the intrusion—no, that there is something which does not require the intrusion of any element of third-party determination which would at the same time assure against an interruption of production. I don't believe that there is.

Mr. KEITH. How about a labor court?

Secretary WIRTZ. I think that is a matter of name. There is a suggestion that in Sweden there are labor courts. That is a term used in Sweden to cover a jurisdiction of courts very close to our grievance procedure and NLRB.

There are other countries which have experimented with it. I don't believe that calling it a court and setting it up permanently on that basis would be other than a difference in cosmetics.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. FRIEDEL (presiding). Mr. Rogers.

Mr. ROGERS. Mr. Secretary, as I understand it, you feel that all has been done to try to settle the matter by mediation, and now out of consideration for the public interest you feel this suggested legislation should be tried.

Secretary WIRTZ. Yes, sir.

Mr. ROGERS. As I understand it, you maintain this is not compulsory arbitration since they can change the Board findings and the Board findings are only binding for so long.

Secretary WIRTZ. And more particularly because of the area of determination here being so narrow and is so tied to their collective bargaining.

Mr. ROGERS. Do you feel that is a distinguishing feature of compulsory arbitration?

Secretary WIRTZ. Yes, sir, I do. I think compulsory arbitration properly attaches to a proceeding in which that element dominates, covers the whole of the situation, is established in advance of any dispute, in contrast to a situation here where the Congress would provide that the history of collective bargaining in that particular case, which is quite extensive, must be brought to bear and must constitute the element of third party determination.

Mr. ROGERS. I had assumed that if parties could get together on other issues, the only point they could not get together on would be submitted to the Board and would be binding. I do not see a distinguishing feature there.

Secretary WIRTZ. Let me make a comparison. I don't think collective bargaining in this country today is properly described as compulsory collective bargaining.

It is a matter of terminology. There is a requirement by law that parties bargain collectively, but I don't think the application of the term compulsory to that is today a fair communication of the idea.

I have thought that to talk of the union shop as compulsory unionism is not a fair application of the term compulsory. It always is a question, Mr. Rogers, of whether the element of final determination which is here, and undeniably here, is a dominant characteristic, as I think it not to be in this case, or is the controlling consideration, as

I think it to be in Australia, and as it was during the war in this country.

Mr. ROGERS. Do you feel that this is temporary legislation?

Secretary WIRTZ. Yes, sir.

Mr. ROGERS. Is there any reason you see why the Congress should not, in its consideration of this matter, go ahead on its own volition to consider permanent legislation to meet these national problems that arise?

Secretary WIRTZ. Your question is, if I see any reason why it should not consider that?

Mr. ROGERS. Yes.

Secretary WIRTZ. I see no reason why it should not consider it. You will note from what I have said, my present testimony, if called upon, would be in opposition to that. But the situation is certainly such that that is a proper subject of consideration.

Mr. ROGERS. Could we expect cooperation from the administration with the committee in considering these matters of a permanent solution?

Secretary WIRTZ. Complete cooperation. But I don't want to diminish the course that I feel in my own mind on the subject. I am at the present point strongly opposed to that. But you would get the fullest cooperation in connection with its consideration.

Mr. ROGERS. What I am thinking is this: I understand that the administration has come to no position on this so far as a solution. Suppose this committee could arrive at a conclusion.This does not mean that you would necessarily oppose it until you see what the proposals would be.

Secretary WIRTZ. That is correct, and a proper criticism of the statement I just made. I went too far. I shouldn't say I would oppose anything along that line, or everything along that line.

Mr. ROGERS. Would there be any reason why this legislation should not be permanent and apply to all situations affecting the national interest?

Secretary WIRTZ. That was really the question I was answering. I would like to clarify my answer of before. I do not mean to suggest that I would automatically be opposed to any proposal for dealing with this matter over the longer run. I would not take that position. I was replying in terms of this particular proposal. I would not be prepared at this point—putting it the other way, I would at this point oppose the establishment of a general law cast in these terms, because I think that here you have a special situation, and this legislation is designed to meet the facts in this particular case, and, therefore, would not be applicable as a general law because it is so closely tied in with the bargaining, the mediation, in this case.

Mr. ROGERS. Thank you.

Mr. FRIEDEL. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Secretary, this question I am about to propose to you is not about anything I have made up my mind on, I am seeking information only.

What if this committee would table this legislation and take no action and then a strike does result? Is there any legislation that empowers the President to do anything at that point?

Secretary WIRTZ. Let me be sure I understand the question. You are assuming the enactment of this resolution?

Mr. CUNNINGHAM. No; say that we table this resolution and take no action and the strike ensues. Then is there anything at all legislative-wise or any power the President has to deal with the situation after the strike takes place?

Secretary WIRTZ. There is up to the 19th of June because of the extension of last week, and after that there is nothing at all.

Let me answer more precisely in terms of your question. There would be no authority for the President at that point to do anything.

Mr. CUNNINGHAM. I want also to go over what another member asked about, a long-range solution to these sorts of strikes.

I know we cannot presume what the President had in mind when he delivered his State of the Union message a year ago.

I believe in response to that question, however, you stated—and correct me if I am wrong—that such legislation is under active consideration. I don't know exactly what that means.

Is there a study continually going on in this particular field?

Secretary WIRTZ. Yes. It has been the subject of extensive discussion at the Cabinet and sub-Cabinet level over a rather extended period. There has also now been a considerable amount of public notice of the fact that the President appointed a task force some 6 or 7 months ago made up of people outside the Government to consider this matter, that made some recommendations to him.

The matter is, beyond that, the subject of continuing consideration as these problems arise. My answer to Mr. Rogers would have been very misleading if I hadn't corrected it. My answer was that I would oppose the making of this as permanent legislation. But we are actively considering the question of what should be done about the broader matter.

Mr. CUNNINGHAM. That was really what I was trying to get at.

Of course, you are the experts, and the people in the Labor Department are the experts, in this field. The career people in your Department, are they, too, thinking this over and contributing to it?

Secretary WIRTZ. It is not a matter of false modesty. We all know that we become the victims of our own habits. We are working with the parties as mediators. We are affected by that judgment, and so on and so forth.

So there has been every effort on the President's part, and I think very properly, to enlist the widest variety of opinion and reaction with respect to this matter.

Mr. CUNNINGHAM. I can assume that with the special panel, and your people, those responsible for such legislation if it should be developed, that they have studies and consultations going on and it is under active consideration.

Secretary WIRTZ. Just last week the American Bar Association had a 2-day session, I believe, here in Washington at which they had an extremely competent group of people come in and speak to this subject. We are looking at their statements with great interest.

Mr. CUNNINGHAM. I don't believe there are any more competent people than you and your Department.

Secretary WIRTZ. We get too close to it, for one thing.

Mr. CUNNINGHAM. I was always under the impression that the Railway Labor Act was one of the finest acts that we have in the field of labor-management relations. Isn't it looked upon that way?

Secretary WIRTZ. The Chairman of the Board is here and he could perhaps speak better to that. I think the answer is, "Yes," except that there is a feeling that, as the practice has developed, there is a strong tendency on the part of both sides, the railroad organizations and the railroad carriers, to rely too much on the statutory procedures and not to do enough of a job themselves.

Mr. O'NEILL. That is true. Of course, it should be recognized that this is the first time in my memory where we had a wage case put in the hands of Congress. The other cases dealt with serious problems involving changing rules and eliminating manning problems. That was the one in 1963.

This is a wage case, which is quite unusual. They always seem to get ironed out under the act. This one, unfortunately, has not been.

Mr. CUNNINGHAM. In other words, we had the one in 1963, then the airline strike, and now we have this one. It seems then that these are, except in this case, far-reaching, technical disputes and that is the reason we are having them before us now?

Secretary WIRTZ. No. The first one was, but in distinction this one is not.

Mr. CUNNINGHAM. This is all wage?

Secretary WIRTZ. That is correct.

Mr. CUNNINGHAM. Thank you.

Mr. FRIEDEL. Mr. Kornegay?

Mr. KORNEGAY. Thank you, Mr. Chairman.

Mr. Secretary, most of the questions I had in mind have been asked, but I don't know that I fully understand the answers.

One of them concerns your statement, on page 5, which is repeated several times, that this is only the third case to come before the Congress in the last 4 years. Actually, there are about 100,000 cases a year under labor-management contracts. Somebody touched on it, but I don't recall what your answer was in connection with how many of these have been in the area of transportation that is covered by the Railway Labor Act, the railroads and airlines.

Secretary WIRTZ. I think we ought to supply a detailed record of that, but this much is true, and I think central to the answer to your question:

The most serious problems we encounter in collective bargaining center to an extraordinary degree on the transportation industry, the railroads, the airlines, the offshore and onshore maritime problems, and the trucking problem this year, although this is the first time that that has become so great.

But your point, and my answer, is that there is a real concentration of difficulty in the transportation industry.

Mr. KORNEGAY. Would you care to make any statement, if you have any opinion about it, as to why this is the case?

Secretary WIRTZ. I am frank to say that I get more confused about it than I get clear about it.

I think the elements in the railroads and the airlines have a similarity, but they are quite different from the elements of controversy

in the longshore, in the maritime industry, and quite different from the elements which showed up in the trucking industry.

One of the easiest assumptions would be that there becomes a monopoly element here not in legal form, but in actual fact, so that you have in each of these cases a situation in which a strike or a lockout does hurt the country before it hurts either party. I think that is an important element.

In that sense, a strike or a lockout becomes not only an economic but a political question; not only directed against the other party, but against the country.

It is in this area that the common denominator lies. I don't understand all of it, and there are different factors in different situations.

Mr. KORNEGAY. Might it be that transportation becomes so vital to the country and the welfare of the economy that it approaches the point where, I get from you, the administration and people generally, we just can't afford to have a railroad strike? Is that the present case?

Secretary WIRTZ. It is our belief that at the present time that is true.

Mr. KORNEGAY. That distinguishes it from a factory that is making automobiles or plumbing fixtures, or anything else, where there are other companies making the same things to provide to the American public; is that right?

Secretary WIRTZ. Yes. And in connection with that, it is also true either as a cause or as a development of this that there are patterns of nationwide bargaining or areawide bargaining in all of these four industries which contribute to what you are suggesting.

It has developed that as far as the railroads are concerned most of the bargaining, as illustrated here, is on a nationwide basis.

Mr. KORNEGAY. That was going to be my next question, as to whether or not there was any hope or solution in maybe changing our system of bargaining in the transportation industry.

Secretary WIRTZ. Yes, I think there is a possibility. But it would be a mistake to disregard this fact: There is a general assumption in the country as a whole that it is labor which insists on the broad bargaining pattern and management which opposes it. It is significantly true that in these industries that is not the fact, and it is here that management urges most strongly that there be nationwide bargaining on the railroads—particularly on the railroads.

You have a parallel to that as far as the maritime industry is concerned. You have a considerable amount of it as far as the airlines are concerned. You have in the recent trucking case, in the fact of a lockout, a national lockout, a reflection of it, too.

So yes, I think you are very close to the heart of this problem, but I don't mean to suggest that there is any solution.

Mr. KORNEGAY. I wanted to get your ideas. I think when you have a monopoly, not in the legal sense but in this sense, of course, you eliminate one of the forces that work in the ordinary collective bargaining situation. That is the element of competition, which is a dominant factor in the ordinary situation, certainly on the part of management.

Secretary WIRTZ. These are root considerations in any wide, general attention to this problem.

Mr. KORNEGAY. Thank you very much.

Mr. FRIEDEL. Mr. Broyhill?

Mr. BROYHILL. Thank you, Mr. Chairman.

Mr. Secretary, the questions this morning have been lengthy, and your responses have gone into great depth. I only have one or two questions.

From reading the report to the President by Emergency Board 169, I find on pages 4 and 5 recommendations by the Board for permanent legislation.

As the Secretary of Labor, and as the spokesman for the administration, do you feel in a position this morning to comment on these legislative recommendations made by Emergency Board No. 169?

Secretary WIRTZ. Those are on pages 4 and 5?

Mr. BROYHILL. Yes.

Secretary WIRTZ. The first one is for the extension of the statutory period to 80 days, the no-strike period. That was recommended by the President in this particular case and acted upon by the Congress. Although I am in no position to make any formal administration——

Mr. BROYHILL. That was not permanent.

Secretary WIRTZ. No, it is not. I cannot give you an administration position on that.

In personal terms, that would seem to have a good deal to commend itself and that would bring it in line with the Taft-Hartley period. I take no formal position on that, but I would express some concurrence in that view. You will understand the author [Mr. Ginsburg] of this report is here.

Then the President shall have the power to extend the initial period for an additional 30 days. I would not be prepared at this point to express a judgment with respect to recommendation No. 2.

I would express a favorable position with respect to Recommendation No. 3. On this point, Mr. O'Neill's judgment would be better than mine, but I think we would both feel that sometimes emergency boards have made mistakes by making specific recommendations when it would have fitted in much better with the collective bargaining process for them to be more general in their approach.

I would agree that there must be attention to the methods for achieving speedier and more effective settlements.

So with respect to 1, 3, and the general provision, I would concur, and would only reserve judgment with respect to No. 2.

Mr. BROYHILL. There are at least two bills before our committee introduced by our colleagues, one introduced by our colleague on this committee, Mr. Pickle.

Do you, as Secretary of Labor, and the spokesman for the administration, have any position on these two bills?

Secretary WIRTZ. Not as spokesman for the administration. We have given very serious consideration to the bill introduced by Congressman Pickle. I cannot express an administration position on it.

Mr. BROYHILL. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Van Deerlin?

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

Mr. Secretary, in Chairman Staggers' opening statement he referred to a written offer from the Railway Brotherhoods to continue such operations as are vital to maintaining the movement of defense shipments. Would you evaluate the practicability of that offer?

Secretary WIRTZ. I have only a layman's knowledge of it, Mr. Van Deerlin. I can only say to you that those with whom I have discussed

the matter within the administration find that a suggestion which would present very real operating difficulties, and they would be inclined to question whether it could be worked out at all easily.

But I don't count that a definitive answer, as far as I am concerned. I really don't know.

Entirely respectfully, I would suggest that the carriers and the unions would know better the possibility of that than I do.

Mr. VAN DEERLIN. Almost two-thirds of the military shipments, of course, go by railroad. Do you have an estimate of what percentage of the total railroad freight business this represents?

Secretary WIRTZ. No, sir; I don't.

Mr. VAN DEERLIN. The point was made a moment ago that the President would have no powers other than what he had by the last congressional action after this 45-day extension expires in June.

Secretary WIRTZ. June 19.

Mr. VAN DEERLIN. Has there been an opinion from the Attorney General as to whether he might still have the same power that President Truman exercised in August 1950 under wartime powers of the act of 1916?

Secretary WIRTZ. There has been such an opinion. It is that there would be no authority.

Mr. VAN DEERLIN. That the authority that President Truman exercised no longer exists?

Secretary WIRTZ. I don't know that the opinion is in that form. The opinion is that there is today no authority.

My own personal impression is that the authority under which he acted in 1950 terminated in 1952. But I would have to check the details of that. I mean to be categorical about the absence of any authority today. My only reservation is in terms of your question that I don't know what happened to that authority. My recollection is that it terminated in 1952.

Mr. Moss. Would the gentleman yield?

Isn't that the instance where the courts ruled that the President had no inherent authority to operate, in the *Youngstown Sheet* case?

Judge FAHY. That is correct.

Mr. Moss (presiding). I thank the gentleman for yielding.

Mr. Harvey?

Mr. HARVEY. Thank you.

I am sure you considered the other alternatives to 559. I am sure one of the alternatives was seizure. Why do you object to that?

Secretary WIRTZ. I have a little difficulty in answering about seizure, in broad terms. I will preface my answer by recognizing that there would be different forms of it. But I don't think that the circumstances of this case warrant the taking over of a property.

As the chairman indicated, there are an infinite number of problems, one being whether the conditions should be frozen as they are or whether there would be the power to change them. There would be the introduction of all the complexities of the transfer of ownership or operation.

There were about 125 or 135 seizures during the war. Most of them ended up in litigation. So there are all those complexities.

I also think it is a matter of common fairness involved here, equities of the situation. I don't think the circumstances here warrant the taking over of properties by the Government.

Mr. HARVEY. So for all of those reasons, you are recommending House Joint Resolution 559 as the alternative?

Secretary WIRTZ. I guess it would be fair to say I came here to bury seizure, not to praise it.

Mr. FRIEDEL (presiding). Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

First, Mr. Secretary, I want to compliment you on the statement you have made. I have been impressed with your sincerity, with the conviction you have expressed, that we have to find an answer, and with the fact that House Joint Resolution 559 represents what you think is in the best interest of the public.

I conclude from what you said, Mr. Secretary, that you are offering House Joint Resolution 559 because you don't know what else to suggest as a remedy to the present problem, or at least because you think this is the most fair and equitable solution under the present circumstances?

Secretary WIRTZ. I think it is very fair. I don't have any stomach any more than the rest of us for this whole business. This is a matter of "yes," because I don't know anything else better.

Mr. PICKLE. I would point out that I am almost like a relative, an illegal relative, at a family reunion. I have introduced a bill in this field. Are you familiar with it in general?

Secretary WIRTZ. Both in general and in detail.

Mr. PICKLE. In my way of analysis, what I have proposed is much the same as what you have come forth with here in House Joint Resolution 559; there is a great deal of similarity. Would you agree with that?

Secretary WIRTZ. There is a great deal of similarity. If I may add just a word about the differences, the differences are two: First, the bill which you have introduced would apply to all situations in advance. I don't say we will eventually find that wrong. It does introduce a kind of crutch effect into it. But secondly——

Mr. PICKLE. It is limited to the field of transportation.

Secretary WIRTZ. That is correct. It is in transportation alone.

Probably the greatest distinguishing characteristic is that this one is tied very directly into perhaps 98 percent of the job, and that is a conversational statistic, which has already been done by collective bargaining in this case. That would be very difficult in general, advance legislation.

But there is certainly a similarity, Mr. Pickle, in trying every way in the world to get a settlement by mediation before you introduce any other elements.

Mr. PICKLE. I would want to point out to you, and to all other members, that the measure I have recommended would amend section 10 of the Railway Labor Act to extend collective bargaining and allow one of two routes—in one instance up to 280 days and in another instance up to 150 days—and during all this time a choice of procedures would be offered to either the President, to the Congress, or to a special board. There could be other refinements to that.

And then, much the same as you have recommended here, there would be a determination of up to 2 years, but the parties could still agree after that time. That is the same thing you have recommended.

You answered to Congressman Rogers a moment ago that you thought that permanent legislation would not be desired in this par-

ticular case because the particular negotiation which has been going on is rather rigid and rather set, set in concrete, I guess.

Why wouldn't it be desirable, Mr. Secretary, to have a law that would have this flexibility, that would give a series of choices, that would provide an arsenal of weapons to try to bring these things to a culmination?

I assume what you are saying is that it would be well for us to consider it, although you may not be in favor of it right now; that it would be well for our committee to consider it.

Secretary WIRTZ. Yes, and I would go on to add that the pattern which is followed here is more like the pattern in the bill you have introduced than it is like any of the other patterns which have been introduced. It does have the important distinction, in my judgment, of tying it to the bargaining.

I don't think of that as inflexibility here, and, therefore, a disadvantage. I think of it as an advantage because it draws on what the parties have already done.

Mr. PICKLE. Mr. Secretary, I would request that you and the administration give to me your comments on the measure that I have recommended. Would you do that?

Secretary WIRTZ. Yes, sir.

Mr. PICKLE. One last question: On page 6 of your testimony you made a very strong point that this resolution "provides that if a determination must eventually be made by someone other than the parties, that determination will be drawn from the record of the parties on bargaining in this case." I think that is a good point.

My question to you is this: Are you saying that you would take from the Mediation Board and the Emergency Board the right to consider the various offers involved in dispute, or that you would choose one or the other? Would you either choose the pros or the cons of the case, or would you give that much leeway?

What do you mean when you say "limited to the determination of the parties on the bargaining"?

Secretary WIRTZ. I do not mean that they would be held to a position taken by either party. I do mean, in answer to the first part of your question, that their discretion would be very sharply limited, and even if they felt, just to be specific, or if they found that the parties had come within the distance between A and B, and if they felt that the right answer was outside that area and was over at C, they would not be permitted to go outside that area which the parties had found in their own bargaining.

Mr. PICKLE. Thank you.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Secretary, although the committee members have been quite pointed in their questions, I am sure I reflect the sentiment of those who would express it here, that we are grateful to you for the very able and knowledgeable manner in which you have handled this problem.

I would only venture one comment: I don't see why these parties haven't gotten together, because you have been quite persuasive here this morning.

Has not the solution of this particular dispute been aggravated by the fact that some 74 percent of the railway employees have already agreed to the terms for a new contract, and should the demands of the disputed unions be agreed to or acquiesced to, it would have adverse repercussions to some 75 percent of the other employees?

Secretary WIRTZ. My answer would have to be a little cautious on that. You say "aggravated." I would take a more neutral word. It has been affected by the settlements made in the rest of the industry. That works both ways, of course.

Let me say, and I hope I don't avoid your question in my answer, that it is first the fact that there has been the settlement in the rest of the industry. It is, second, a fact that that has had an effect on the bargaining here.

Mr. WATSON. Mr. Secretary, earlier my friend from Michigan questioned you concerning whether or not the carriers or management supported this particular resolution. I am sure you would rather have us get their positions from them rather than from you, for the record.

But by way of background, what has been the attitude or reaction of management concerning the recommendations of the Mediation Board, the recommendations of the Emergency Board, and those of the Special Board?

Have they been so intransigent as you have implied? I would like to get this in proper perspective.

Secretary WIRTZ. The problem, I think, to which you refer, or the point, has come up at three stages in this proceeding. The problem probably came up first in connection with the proffer by the National Mediation Board of voluntary arbitration. That was accepted by the carriers and was rejected by the unions.

It came up next in connection with the recommendations of Emergency Board No. 169. At that point the carriers accepted the recommendation and the unions did not.

It came up then in connection with the proposals of the Special Mediation Panel on April 21. In that situation neither party accepted the recommendations.

That is where the record stands as of now.

Mr. WATSON. I have one further question concerning the Special Board that would be established should this resolution be passed. You say the five who are members would be generally recognized as public representatives, and you say the President will look toward labor for one and management for one of the five.

Secretary WIRTZ. That is correct.

Mr. WATSON. Would those appointees be restricted to labor and management involved in this dispute, namely, the railroads, or will it come from management in general, and labor in general, not related to this dispute?

Secretary WIRTZ. There is no indication in the President's message with respect to that point, nor do I know.

Mr. WATSON. Do you believe that the chances of collective bargaining working even at this late juncture would be enhanced by having these parties from the railroads and the labor organizations involved, or from nonrailroad or nontransportation appointments?

Secretary WIRTZ. I don't have a conclusive judgment on that. I would think that the quality that would be sought would be that of a richness of experience in the settlement of disputes, in a public interest that combines the two interests, but that it would necessarily require knowledge of the special situation in the railroad industry on the part of the labor organizations and the carriers.

Mr. WATSON. I can see that, but as I recall, earlier you stated that even with the expertise of the Department, and of you personally—which obviously you have—perhaps you are so close to the problem that your judgment is not as free or is not quite so objective as one of the others totally removed from it. Do I recall your making such a statement?

Secretary WIRTZ. Yes.

Mr. WATSON. And yet you counteract that now and say perhaps you should have those involved in the process.

Secretary WIRTZ. I said that the knowledge of the railroad situation would be important here.

Mr. WATSON. Thank you very much, Mr. Chairman.

Mr. FRIEDEL. Mr. Secretary, can you return Thursday?

Secretary WIRTZ. Surely, I can.

Mr. FRIEDEL. Thursday morning at 10 o'clock?

Secretary WIRTZ. Yes, Mr. Chairman.

Mr. FRIEDEL. Tomorrow morning at 10 o'clock the Secretary of Transportation, Mr. Alan Boyd, will be our witness.

The committee will not adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 12:05 p.m. the committee adjourned, to reconvene at 10 a.m., Wednesday, May 10, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 10, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Today the committee resumes its hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain of the railroad carriers and certain of their employees.

We have today as the first witness the Honorable Alan S. Boyd, Secretary of the Department of Transportation.

STATEMENT OF HON. ALAN S. BOYD, SECRETARY OF TRANSPORTATION; ACCOMPANIED BY SCOTT HARVEY, LABOR ECONOMIST, OFFICE OF THE ASSISTANT SECRETARY FOR TRANSPORTATION POLICY DEVELOPMENT

The CHAIRMAN. I have two letters, one from the Secretary of Transportation and one from the Deputy Secretary of Defense, both of them in the same vein and both of them addressed to me. I want to ask the Secretary first about the letter that I received from him yesterday, on the day before he would testify here. I want to know why he would send me a letter about his testimony and release it to the press, so that the press would actually ask me several questions about this. Why didn't he wait until today when he would be here to testify at the regular time before the committee.

Can the Secretary answer this?

Secretary BOYD. Yes, I would be delighted to.

The letter was in response to a statement made by the chairman on the floor, I believe, expressing the view that there may well not be any emergency involved. I am paraphrasing.

The CHAIRMAN. You couldn't wait until today to do that?

Secretary BOYD. Yes, sir, I——

The CHAIRMAN. You had to write a letter and give it to the press yesterday. I didn't make the statement on the floor. If you knew what was going on, I made it right here yesterday. I didn't make it on the floor. You could have waited until today when you knew you were coming to testify.

Secretary BOYD. Yes, sir, I certainly could have.

It was my impression, Mr. Chairman, that I was doing the proper thing in expressing my views.

The CHAIRMAN. I might ask who you consulted with in this that you would go ahead and answer this before you came up here today.

Secretary BOYD. I am my own adviser.

The CHAIRMAN. You are your own adviser?

Secretary BOYD. Yes, sir.

The CHAIRMAN. And you did this on your own, you say, just to release this?

Secretary BOYD. Yes, sir.

The CHAIRMAN. Do you think this is ethical?

Secretary BOYD. Certainly, there is no question of ethics involved here to my mind, Mr. Chairman. Had I thought there was anything unethical involved in this, I would, I assure you, not have transmitted anything to you.

The CHAIRMAN. I think you would have been far better off if you had done just that and waited until today to state your opinion before this committee without sending a letter, and without telling me, release it to the press of the Nation.

Secretary BOYD. If that is the case, I must apologize. My information is that the letter was delivered to you before it went to anybody else, before copies were made available.

The CHAIRMAN. That it was delivered to me personally?

Secretary BOYD. Yes, sir.

The CHAIRMAN. Mr. Secretary, whoever your adviser is, he is completely wrong. It was not delivered to me personally, ever. It was delivered to my office. You may have thought it was delivered to me personally. But it was not. I have other duties, too.

Secretary BOYD. I appreciate that.

The CHAIRMAN. I don't think you do. When you hear these matters from other sources, there is something wrong when we have to go to the press without waiting until the time to come before this committee, in proper order, to give your views.

Secretary BOYD. I certainly want to apologize for the failure of the letter to reach you, Mr. Chairman.

The CHAIRMAN. I think you should have at least ascertained that it had been delivered and brought to my attention, without leaving us to go to the press to get our information.

You may proceed with your testimony.

Secretary BOYD. Thank you, Mr. Chairman.

I am here today as a witness for the public interest as expressed in the House Joint Resolution 559. I am not here to support or condemn either labor or management in the current railroad dispute. I am not here as an experienced expert in the very complex area of labor-management relations. Judgment on such questions I leave to others within the administration.

The President has had the benefit of the advice and counsel of a large number of such experts. I will defer to them in expressing the administration's opinion on the implications of this resolution in terms of collective bargaining.

When I was confirmed by the Senate for the post I now hold, I made it clear that in transportation labor-management disputes of a national nature, just as in major transportation cases coming before regulatory agencies, the Department of Transportation would vigorously represent the public interest. In my opinion, the American public

is a vital third party in such issues which deserves at least equal if not paramount consideration.

Too often in the past there has been the assumption that within the Government, the Department of Commerce has been a spokesman for management and the Department of Labor a spokesman for the unions.

I know that the present Acting Secretary of Commerce and the Secretary of Labor as well as the past Secretaries with whom I have been associated reject that characterization. They would acknowledge no representation other than that of the public interest. That also is my position.

The public interest in the railroad dispute goes beyond a matter of inconvenience—it vitally involves this Nation's Vietnam and defense effort and capability; it involves provision of essential commodities to our great cities; it involves maintaining our 73-month record of economic expansion and our current low-unemployment rate. And it involves more.

Mr. Chairman, the information that we provide to you today is by no means a total picture of what will happen if there is a nationwide railroad strike.

Our Department is now approximately 5 weeks old. We have not yet had the opportunity to develop the research and analysis activities that will enable us to assess, with far greater precision, what the impact of ary transportation shutdown will be. We have several contracts with research experts which will, within a short time, enable us to make such evaluations.

Nevertheless, the evidence that we offer you today has convinced us that a national railroad strike would affect virtually every segment of the American economy and cause immeasurable hardship for most Americans.

The railroads operate 211,500 miles of line serving over 50,000 communities. During 1966, the rail system moved over 738 billion ton-miles of freight, approximately 43 percent of the total intercity movement. Nearly 13 billion passenger-miles in intercity transportation were provided by the rail system, which is 18 percent of the total intercity movement carried by common carriers.

Rail commutation service produced over 4 billion passenger-miles, concentrated mainly in New York, Chicago, and Philadelphia. Transportation services performed by the railroads produced $10.7 billion in revenues or 1.4 percent of total gross national product. The railroads employ over 630,000 workers, most of which would be immediately without work should a stoppage occur.

A characteristic of the development of transportation in this country has been a growing specialization of transportation services. The economics of rail transportation make it the most inexpensive means of moving many high density, bulk commodities.

In areas without access to effective water transportation, rail is the only economically feasible alternative available for the movement of bulk traffic. Some groups of commodities move almost exclusively by rail.

Among manufactured products, railroads carry over 90 percent of the ton-miles of shipments of passenger car bodies and body parts, nonferrous metal primary smelter products, millwork and prefab-

ricated wood products, and flour and other grain mill products, among others.

Railroads account for 37 percent of total manufacturing shipper ton-miles and over 60 percent of total manufacturing shipper ton-miles if petroleum and coal products are excluded.

Particular products which are carried almost exclusively by rail and which are important to the Nation's health and welfare include chlorine, without which water purification efforts would be hampered.

Rail is also the primary source of transportation for many non-manufactured commodities. 72.8 percent of coal tons move by rail, as do 89.5 percent of hogs, 73.3 percent of cotton bales, 68.0 percent of Northwest grains, and 74.2 percent of North Central grains.

Rail is of greater importance to commodities produced in particular regions than in others. For instance, while railroads carry 83.8 percent of the ton-miles of lumber and wood products in the Nation, they carry 91.9 percent of the ton-miles originating in the Pacific States.

The Department of Agriculture has informed us that any prolonged interruption in rail service would bear most heavily on perishable products and on semiperishable grains that usually move to concentration and consumption points by rail. May through September is the heaviest period of production of poultry meat.

Southeastern producers rely on regular movement primarily by rail of large quantities of corn and other feed ingredients. Any interruption of these movements could result in grossly inadequate supplies of feed for the poultry in houses at the time.

June, July, and August are months of heavy movements of fresh fruits and vegetables. Carlots moving by rail from California in June 1966 were almost 31,000, and in July, over 29,000. If not moved quickly to market, most such products deteriorate and cannot be salvaged.

The impact on agriculture of a nationwide strike would be particularly severe now for some areas.

As of April 1, 1967, there were still more than 3.1 billion bushels of grain and soybeans in storage on farms.

The 1967 harvests, the majority of which moves by rail, have already started in Texas and will continue northward throughout the spring, summer and fall. Any lengthy interruption in the movement of wheat, sorghum, corn, soybeans, soybean oil, and meal to ports would be a great loss to the industry and the Nation, as large quantities of our supplies move into export channels as commercial sales or as donations.

Many processors ship full train loads (40 cars or more with reduced rates) of these items to port locations. A rail strike would interfere with the flow of this country's agriculture traffic to foreign nations—and thus the further aggravation of the balance-of-payments problem.

Forestry products, reportedly have been lagging in shipments over the past 8–12 months because of the lull in building activity. This has resulted in unemployment and hardships in many lumbering areas of the Northeast and Northwest. Most lumber products move by rail, and any further interruption of the movements now beginning in response to the brighter construction outlook would be disastrous to numerous communities.

These facts vividly point out the importance of rail transportation to the economy. Furthermore, it is unlikely that a significant pro-

portion of this traffic could be shifted to other modes. Estimates of excess capacity available from other modes place the maximum diverti-ble amount of traffic at 10 percent of the normal rail volume and that only after extensive adjustment in traffic patterns have been achieved over a number of weeks. Even this low figure does not account for the specialized handling requirements of much of the traffic normally carried by rail.

The importance of rail transportation as a supplier and as part of the production process leads to a spreading or cumulative effect which is much greater than the immediate impact on particular industries which rely heavily on rail service.

Using the example of coal, three-fourths of which is moved by rail, interconnection with other industries and the spreading effect can be demonstrated. Coal is used partly for final personal consumption and for export, but it is also used by producers of energy and other commodities such as iron and steel and stone and clay products, which are in turn utilized in the production of other goods like automobiles and other manufactured products.

This spreading effect produces a real and serious result upon overall gross national product which is many times the value of rail service.

In 1963, the Council of Economic Advisers estimated that a rail strike of one month's duration would produce a decline in gross national product of over 13 percent, nearly four times the quarter-to-quarter drop in gross national product during our greatest postwar recession in 1957–58.

This cumulative effect can also be expressed by looking at the industries affected. Immediately affected would be coal mining (and export), several chemical industries, movement of animals for slaughter, and refrigerator car traffic, plus intercity passenger and commutation service.

Within a week, the automobile industry and construction would begin to be seriously affected. As the stoppage continued, the effect would be spread into periodicals, boiler products, motors, generators, and nearly all areas of economic activity, either directly or indirectly.

At the end of one month, over 6½ million persons would be unemployed due to the stoppage of rail service.

Aside from the impact on the private economy, the Government relies heavily on rail service. Past experience indicates that the Post Office Department would be forced to refuse all second, third, and fourth class mail, including parcel post, moving more than 150 miles from origin.

Nearly 40 percent of the ton-miles of Defense Department freight moves by rail. Thirty percent of this traffic is of a nature which precludes diversion even if capacity were available. During a time in which the free flow of defense commodities to support the effort in Vietnam is required, an interruption of rail service could seriously diminish our military capacity.

Fortunately, there is little past experience which can guide us as to the actual effect a nationwide stoppage would have The only case in which a stoppage of the magnitude concerning us now actually occurred during the postwar period was the 48-hour nationwide strike May 23–25, 1946.

The impact of that strike was limited due to its short duration, but reports of the chaos which resulted in passenger and commutation service and in particular industries such as automobiles, coal, and steel indicated a potential national catastrophe had the stoppage continued.

Even with such a short strike, there was serious disruption. Widespread layoffs were reported. Lack of newsprint forced newspapers to publish without advertising. Construction industries suffered shortages. California and Arizona suffered an estimated $450,000 daily loss in agricultural commodities which could not be shipped.

New England, which imports a great percentage of its food, considered emergency action and Connecticut was reportedly without certain types of foodstuffs.

Limited strikes during the period between 1946 and the present were prevented from reaching the disaster level by short durations and by the ability of shippers to switch to other rail carriers not affected by the strike, but were still of serious impact.

The 1966 strike called by the Firemen on eight railroads forced 32,000 commuters in Chicago and 12,000 in Boston to shift to other modes and produced serious traffic congestion. General Motors closed down seven plants and Chrysler and Ford shortened shifts, affecting over 100,000 auto workers.

In a nationwide strike the impact would be magnified several times and rerouting to other railroads could be be accomplished as it has been through ICC measures during such partial strikes.

Should a stoppage of national scale occur, there would be little the Government could do to lessen its impact. Even if agreements could be reached to move essential commodities it would be difficult to determine which should move and to solve problems of mixed trains and products indirectly, but crucially, related to the production and use of essential commodities.

Should accommodation be developed, there would still be significant costs and delays which would adversely affect the flow of defense materials.

During a Presidentially declared emergency, the Department of Transportation could, by Executive order, be charged with coordinating the movement of essential commodities in a manner which would permit priority utilization of available capacity of other modes.

It has already been pointed out, however, that this available capacity is limited and could be used for only those commodities for which feasible alternatives exist.

Emergency action by the ICC to assist shippers in finding alternate means of transport is similarly limited by the capacity considerations and the specialized nature of much of rail service which would be affected.

I have attempted to develop for you the very serious impact a stoppage of rail service would have on the economy and upon the effort to support the Vietnam action.

In my opinion, the effects are sufficiently serious to warrant special action by Congress to prevent them from occurring. The joint resolution before you is designed to prevent the threatened stoppage.

At the same time, our policy toward labor relations is based upon the desire to maintain collective bargaining as the preferred method of settling disputes.

The joint resolution would permit, and, indeed, contribute to such a solution. Considerable progress during the long course of bargaining has narrowed the difference between the parties. The remaining difference should not be permitted to produce a work stoppage of the magnitude involved here.

I support the joint resolution as a fair and equitable solution to the difficult situation which has developed in this dispute.

I would further hope that the parties would be able to resolve their differences between themselves within the procedures established by the resolution.

Finally, I think it is essential to take full cognizance of the efforts that have led up to the presentation of this proposal. The best brains and talent in this country, from labor, management, and the Government, have exhaustively researched and weighed every conceivable alternative given full consideration. The extent of support for these alternatives has been determined.

The negotiations that have already taken place and have already produced substantial agreement on a number of issues have, of course, been considered and must be utilized in any final settlement.

The joint resolution you are considering takes all this into account and makes maximum use of any and all advantages attached to the present situation.

The administration feels that there is no other feasible alternative which protects and assures the interest of the public as well as the interests of labor and management.

Speaking for the public interest, especially as it relates to our total transportation system, I heartily concur and urge the swift passage of this resolution.

Mr. Chairman, that completes my statement.

I am accompanied by Mr. Scott Harvey, a labor economist, in the Office of the Assistant Secretary for Policy Development in the Department of Transportation.

The CHAIRMAN. Thank you, Mr. Secretary. I want to thank you for your statement. It states your views very clearly and that of your Department.

In the light of your last statement, since you urge the passage of the resolution. I am sure you would agree that if this committee sees fit in their wisdom to alter that resolution after they have heard all sides, that could coincide with your thinking on the democratic form of government, would it not?

Secretary BOYD. Yes, sir.

The CHAIRMAN. You mentioned about the different things that had been agreed upon, without mentioning them specifically.

Do you know what the differences are between the unions and the railroads now?

Secretary BOYD. I will give you my understanding of the differences. One is on duration of contract, one is on level of general wage increase, and one is on level of the so-called inequity relationship between skilled and unskilled labor within the railroad industry and between the railroad industry and other industries having similar skills.

The CHAIRMAN. It may not be fair to ask you this question, but the last one you mentioned, the inequities between the skilled workers in

the community and the others who reside and work in the community, do you think they ought to be commensurate with the others or comparable?

Secretary BOYD. I certainly accept the point of view which I understand was expressed by the shipcraft unions through their bargaining representatives before the emergency board, which was that these could not be made totally comparable right now, that there should be a step operation.

Ultimately, yes, I agree, but I do not think that it would be possible within the context of the other agreements in the rail industry and the period of time over which the so-called compressibility issue has developed at one fell swoop to resolve it.

The CHAIRMAN. You mentioned these other things, but isn't that really the crux of this disagreement?

Secretary BOYD. That, I don't know, Mr. Chairman.

The CHAIRMAN. I think if you will read the issues, that is mainly it. These are only six of the different unions that are involved here that have not come to an agreement, I think.

Secretary BOYD. Yes, sir.

Mr. PICKLE. Mr. Chairman?

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. In order to complete the record, I wonder if the Secretary could give us, with respect to the differences involved, what was the split or difference in duration and wages.

As I remember, it was a matter of 18 months as opposed to 2 years and 6 percent as opposed to 6.5. I am not positive, but is this generally correct? Are you familiar with the differences?

Secretary BOYD. The latest information I have, Mr. Pickle, is that the brotherhoods were seeking a 2-year contract. The railroads were prepared to offer a 1-year contract. The railroads offered a 1-year contract at 5 percent with a study, or they accepted the findings of the emergency board which would have provided a 5-percent, across-the-board increase, a 1-year contract, the provision for establishment of an escrow fund on the part of the railroads and a job evaluation study to ascertain which of these 137,000 employees were suffering from any inequities and which were not.

On the other hand, the brotherhoods sought a 2-year contract. The latest information I have on their proposal is 6.5 percent for 1 year across the board, 5 percent for the second year, with 12½ cents in equity provision the first year and 12½ cents the second year.

Mr. PICKLE. Was this the offer of the so-called Fahy group?

Secretary BOYD. No, sir. The Fahy Panel recommendations were for an 18-month contract with a 6 percent across the board for the 18-month period with three 5-cent increments on the inequity provisions, 5 cents as of April 1, 1967; 5 cents as of October 1, 1967; and 5 cents as of April 1, 1968.

Mr. PICKLE. And this was rejected?

Secretary BOYD. Yes, sir.

Mr. PICKLE. By both parties?

Secretary BOYD. It is my understanding it was rejected by both parties.

Mr. PICKLE. Thank you, Mr. Chairman.

The CHAIRMAN. Would you state those again and then I will finish my question?

Secretary BOYD. Sir?

The CHAIRMAN. Would you state your understanding of the Fahy Panel proposals again?

Secretary BOYD. A contract of 18 months' duration with an across-the-board 6 percent increase, with a three-step so-called equity increase to those who qualified as the skilled workers, which I think represents about 100,000 of the 137,000. That would be 5 cents on April 1, 1967; 5 cents on October 1, 1967; and 5 cents on April 1, 1968.

The CHAIRMAN. Those are all the questions I have. I would like to say this, that I believe when we get these two groups here that there is a really misunderstanding that has been bandied about in the public. I don't believe they have met face-to-face recently. Do you know whether there is collective bargaining now?

Secretary BOYD. No, sir, I do not know.

The CHAIRMAN. I believe if we had both of them in here for an understanding, I believe perhaps both of them would offer to settle on a common basis.

Secretary BOYD. I would certainly hope so. From my knowledge of the individuals involved, I am convinced that both sides are composed of and represented by very responsible American citizens, and I am confident that they will, in the final analysis, accept the realization which I think they must, that the public interest is a vital interest in their own negotiations and that they cannot turn their back on the public interest, which would lead them, in my judgment, to a successful conclusion under collective bargaining.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Secretary, I take it in general you are appearing just on behalf of the public interest, is that right?

Secretary BOYD. To discuss impact. That is the only area in which I feel I have any basis for testifying.

Mr. MACDONALD. On page 2 of your testimony, you discuss public interest going beyond inconvenience and talking about the Nation's involvement in Vietnam, the defense effort, and so forth. And the providing of essential commodities to our cities.

I was wondering if you were aware of a message by way of Western Union sent to Mr. McNamara, the Secretary of Defense, by the AFL–CIO Railway Employees Department and by the Railway Labor Association, in which they straightforwardly said to him—

> In view of the scheduled national strike by railroad shopcraft unions at 12:01, May 3, we stand ready to meet with you at any time to arrange continued rail transport of all shipments necessary to our Nation's military effort.

I would guess that would certainly mean Vietnam.

And then it refers to the public health—

> This offer is made on behalf of the shopcraft unions and other railroad unions; cooperation on the part of the railroad managements would also be needed.

This is signed by the president of the AFL–CIO Railway Employees Department and by the Railway Executive Association chairman.

I have no reason to question good faith in this statement. Do you?

Secretary BOYD. No, sir.

Mr. MACDONALD. If you don't, then why all this talk about the Nation's defense, its capability for defense and providing essential services to our cities?

Secretary BOYD. I tried to explain in my testimony what I was talking about, Mr. Macdonald. First of all, I would like to suggest that this question be raised with Defense witnesses. I have been advised by the Defense personnel that the same commitment was made at the time of the Firemen's strike in 1966, and that from the standpoint of Defense this was an unmitigated disaster, not because of lack of good faith or good will on the part of anybody, but because of the terribly complicated situation of trying to figure what was essential and what was not essential, and trying to switch cars out of trains and things of that nature as a mechanical proposition.

Mr. MACDONALD. I can see that it would raise some difficulty, but don't you think that it raises a difficulty to force people to go back to work against their will when they have the right to strike under our Constitution?

Secretary BOYD. I think it raises great difficulties. I think that is why we are here.

Mr. MACDONALD. Of course that is why we are here. But you don't talk about that. You talk about public interest. I say that if this offer can be concretely followed by a factual demonstration of their ability to do this, then the public interest would not be affected.

I ask for your comment about that. Am I naive? Am I wrong? The reason I didn't ask Defense is that Defense might say that they have technical reasons. But you are not here on technical reasons.

You stated at the outset you are here representing the public interest.

Secretary BOYD. I am here stating what I think is the public interest.

I would say, Mr. Macdonald, if I may elaborate——

Mr. MACDONALD. Could I finish a question?

Secretary BOYD. Excuse me. I was trying to answer your last question.

Mr. MACDONALD. Don't you think our Government owes a duty to the workers of this country, the right to attempt to do what they say they can do before they are forced to go back to work against their will?

Secretary BOYD. All I am trying to outline in my testimony, Mr. Macdonald, is what I think the impact of a strike would be.

You talk about essential commodities. I don't know your definition of essential commodities. I do not know the Brotherhoods' definition of essential commodities. If we are talking about the movement of fruits and vegetables as essential commodities, if we are talking about the movement of chlorine for water purification as essential commodities, if we are talking about the movement of coal to central power stations as essential commodities, if we are talking about the whole gamut which goes into the defense production industries—that is to say the raw materials which come into the factory and which are then manufactured into finished defense products—I would say it seems

to me it would be very difficult to say that this is the sort of thing that is going to wreck our society.

Mr. MACDONALD. I did not say anything about essential commodities nor does the telegram. The telegram says that they are ready to arrange for continued rail transport of all shipments necessary. It does not say anything about essential. It says those necessary to our military effort and public health. That seems to me quite a broad offer. And would seem to be in the public interest.

Secretary BOYD. I must defer to the Department of Defense in this area.

Mr. MACDONALD. I just have one last question.

Your predecessor, though not of Cabinet level at that time, Mr. Roosevelt, in 1963, appeared before us and gave some statements in connection with a chart. They are contained in the railroad work rules dispute hearings before this committee. They are found on 959.

If you don't have them, I will not press you now, but I hope you can give an answer to the committee on this. Do you find his statements concerning what a strike does do to be still applicable?

Secretary BOYD. Yes, sir, generally.

Mr. MACDONALD. In other words, you are familiar with them?

Secretary BOYD. Yes, sir.

Mr. MACDONALD. And secondly, you buttress what he said and say, "Yes, he was correct"?

Secretary BOYD. In developing this testimony we looked at the statement which was made by Under Secretary Roosevelt and the Council of Economic Advisers. We attempted to assess the accuracy of those statements and then to relate them to the present. Having done so, we find that they were generally correct and we support them.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Thank you, Mr. Chairman.

May I say to the Secretary, whom we have known in the past on many other occasions, including as Chairman of the CAB, may I congratulate you on one thing: You are the first public official that I know of in my time, 17 years, who has used both sides of the paper in order to send a statement up here.

I am glad to see there is at least one person in this administration or in Washington, for that matter, whether in the administration or not, who has his eye on economy. If everybody did it in half as much as you have done here, in the same way, we would save a lot of paper and a lot of money for this Government.

Mr. Secretary, I have been much interested in listening to the answers you have given to questions thus far, and I realize that what has been said here with reference to what the brotherhoods are willing to do, as I understand it, in the field of Vietnam and the military effort, and essentials, I take it, would be food and general welfare, and also passenger service—this is my understanding of the three areas—if we were to set them aside and assume that they do all of this, what still would be a problem for the economy?

Would there be any problems then or not?

Secretary BOYD. Yes, sir, I don't think there is any question about that.

As I mentioned in my testimony, a good bit of the basic materials which are moved by rail are moved for export. We have had considerable concern over our balance of-payments situation for quite a number of years. This would have an immediate and dramatic impact on that.

As you may know far better than I, a number of our manufacturing industries utilize the railroad as a pipeline, as a warehouse, in effect, and the automobile companies, for example, I am advised, bring material in, component parts, right off the rail cars into their production line. This would have an impact on automobile manufacturing.

Mr. SPRINGER. Since I only have 5 minutes to question you, could you give me any idea, and I believe this is what the committee is interested in, on how your rate of employment would be affected, at the end of 72 hours, at the end of 7 days, at the end of 2 weeks?

Could you give the committee those figures? It would be helpful in getting the impact. That is what we are interested in. I am hazy from your testimony thus far as to what would be the impact on the employment.

Secretary BOYD. I provided the figure of 6½ million at the end of 30 days. I do not think we can give you a figure on 1 day or 2 days, particularly if one assumes that the strike will not really be a strike.

Mr. SPRINGER. Six and a half million at the end of 30 days is what rate in percentage of unemployment? Can your expert give it if you cannot give it?

Secretary BOYD. I will ask him to work on it.

Mr. SCOTT HARVEY. I can't give it to you right now, sir, but in 1963, when the rate of unemployment was considerably higher, the Council of Economic Advisers said that the additional unemployment would produce an overall unemployment rate of 15 percent.

I don't have the figures right now, but we will provide them for you.

Mr. SPRINGER. Are you thinking in terms of the same thing now?

Mr. SCOTT HARVEY. I don't have the figures, sir.

Mr. SPRINGER. Would you supply them to us?

Mr. SCOTT HARVEY. Yes, I will.

Secretary BOYD. Yes, Mr. Springer.

(For information requested see letter at end of testimony (p. 108).)

Mr. SPRINGER. May I ask your adviser this question: Would there be any reason why it would be any greater or any less today?

Mr. SCOTT HARVEY. Assuming that the rate of unemployment now is lower now than in 1963, the total unemployment rate would probably be lower.

Mr. SPRINGER. I see.

I have never understood, Mr. Secretary, and I assume as Secretary of Transportation you are interested in the general wage schedules—

Secretary BOYD. General what?

Mr. SPRINGER. Wage schedules.

Secretary BOYD. Yes, sir.

Mr. SPRINGER. This has been raised in this committee and I have never understood it.

For instance, is there a reason why—and maybe your economist can help out on this—a reason why, for instance, in Chicago, which I take it is the hub of the transportation industry in this country, that there would be a wage differential which would be substantial, we will say,

from the South Side yards of many of the trains which cross the country, and what there would be, say, at O'Hare Airport, which is the largest airport in the world?

Would there be a reason for that?

Secretary BOYD. Yes, there is a definite reason for it.

As I understand it, unlike the other industry negotiations, aviation, aerospace, and so forth, in the railroad industry for the past 20 years the negotiations between the railroads and the brotherhoods have been based on general across-the-board increases.

This has led to this major issue of compression where the relationship of the wages of unskilled workers has become closer and closer to the wages of the skilled workers. This is what is the inequity situation.

Mr. SPRINGER. That is between skilled workers and unskilled. What I was primarily trying to get was this: Take the machinists, for example. A machinist at a railroad on the South Side of Chicago, and a machinist with the same qualifications working on airplanes at O'Hare Airport, for those two I understand there is a substantial difference between the two in Chicago.

Can that be explained?

Mr. SCOTT HARVEY. I am sure the Department of Labor can answer much more fully than I have. You do have different bargaining patterns in the industries that are involved. There are differences in skill levels. This is one of the issues that is involved in this present dispute.

Mr. SPRINGER. A variation of skills? That is, for abilities in the same skill grouping?

Mr. SCOTT HARVEY. Let me put it this way, that the skills of the airline mechanic are probably not completely comparable to the skills of the railroad mechanic. There may be differences up and down. Certainly the bargaining patterns are different. In some cases you have national bargaining which doesn't take into account the local differences.

In some cases, you have local bargaining which does take this into account. Yo do have a problem involved in adjusting to the local differences.

I would feel the Department of Labor would be much more qualified to comment on the actual aspects of the wage differentials.

Mr. SPRINGER. This has intrigued me. I admit I am not an expert in the field. I wonder what testimony will be offered as to what is the true situation. I will wait until some other witness arrives.

The CHAIRMAN. Mr. Secretary, I have to leave to go before the Rules Committee, but we will return as soon as we possibly can.

Secretary BOYD. Thank you, sir.

Mr. MACDONALD (presiding). Mr. Moss.

Mr. Moss. Mr. Secretary, prior to calling up in the House the last extension resolution, I attempted to develop some comparative studies or facts as to payment schedules in the areas where there would be a concentration of shopcraft employees.

I had my personal staff prepare this. I had to have them do a considerable amount of long-distance telephoning because the information I felt most pertinent to this issue was not available here in Washington.

I was unable to develop fully the statistics from either side in the dispute.

In your appearance today, you have attempted to assess the impact.

Secretary BOYD. Yes, sir.

Mr. MOSS. Yet on page 2 in the last sentence of the third paragraph, you say, "We had several contracts with research experts which will, within a short time, enable us to make such evaluation."

I would like to know what types of contracts, with whom, the scope, and the date the contracts were made.

Secretary BOYD. I will be delighted to furnish that information for the record. I do not have it with me.

Mr. MOSS. Mr. Chairman, I would like to ask that that information be incorporated into the record.

Mr. MACDONALD. It is so ordered.

(For information requested see letter at end of testimony (p. 108).)

Mr. MOSS. Looking over the statement of the Secretary of Labor yesterday and your statement today, it seems to me that the impact of the two statements is that under no condition could this Nation tolerate a railroad strike now or in the future.

Is that a fair assessment?

Secretary BOYD. I would not go that far.

Mr. MOSS. Would you then define the conditions under which a strike could occur?

Secretary BOYD. No, sir, I cannot do that. But I would say this, that depending upon the international posture of the United States in both the military and political areas, and on the state of the economy within the United States, I can visualize a situation where a strike would not be, in my judgment, disastrous, given some limited duration.

I think, as a matter of fact, if a strike is expected to be projected beyond a very few days, then it is going to be disastrous regardless of the other conditions I mentioned.

Mr. MOSS. That would be true of several industries, would it not? You mentioned the railroads frequently play an important role in the export of commodities in the United States. We have had major shipping strikes and the Nation has survived.

Secretary BOYD. That is a completely different proposition, Mr. Moss. We had, I believe, a 76-day shipping strike in the summer of 1965. But that had nothing to do with the number of bottoms that were available for the movement of cargo. The limitation was on the U.S. Merchant Marine, not on the world merchant marine.

As I recall, ships of other nations, other flags, freely moved in and out of the ports of the United States during that period of time.

Mr. MOSS. And were loaded and unloaded?

Secretary BOYD. Yes, sir.

Mr. MOSS. Unloaded during the strike?

Secretary BOYD. I was talking about the shipping strike.

Mr. MOSS. I am talking about the longshoremen strike that tied up the shipping industry. We have had those, haven't we?

Secretary BOYD. Yes, we have.

Mr. MOSS. And we survived them?

Secretary BOYD. I don't want my testimony to be characterized as saying that this nation is going to fail, that we will no longer be a society that can survive, with a strike. I don't believe we need to go

that far in order to say that a strike is something that has a major detrimental impact, a particular strike, on the economy and welfare of the United States.

Mr. Moss. You have indicated on page 8 during the Presidentially declared emergency the Department of Transportation could, by executive order, be charged with coordinating the movement of essential commodities.

Congressman Macdonald has read into the record a telegram offering to move, in effect, essential commodities on the part of the brotherhoods. Has anyone in your Department, or to your knowledge has anyone in the administration, attempted to arrange agreements to define a definition as to the commodities which would be covered in the event of a strike?

Secretary Boyd. No, sir. My reference to the movement of essential commodities in this sentence on page 8 refers to the definitions or judgments by the user agencies of the Government. I do not know, but it is my understanding that each user agency, consumer agency, the Department of Agriculture, the Department of Defense, et cetera, does have some basis for calculating its essential commodities to be moved.

Mr. Moss. But should we not, with the offer now pending, with the fate of this legislation undecided, as a matter of prudence, attempt to establish liaison with the spokesmen for the brotherhoods and the carriers in order to define the types of commodities which could be moved under that offer? How can you make an assessment of impact without first attempting to arrive at those definitions?

Secretary Boyd. I think that would be a very wise thing to do. This, so far as I can see, is a matter for the user agencies to work out. The activities of the Department of Transportation are strictly related to the movement of priority items among those calculated by the various user agencies to be essential.

Mr. Moss. Shouldn't someone within the administration take the initiative to coordinate such an undertaking?

Secretary Boyd. I think it would be a very worthwhile thing.

Mr. Macdonald. The time of the gentleman has expired.

Mr. Keith?

Mr. Keith. Thank you, Mr. Chairman.

I appreciate, Mr. Secretary, that you have only been on the job for 5 weeks, but all of us have been concerned with this problem as we watched it develop in recent years. We have relied to some extent upon the President's statement that some long-range solution must be found and that he would propose such a solution to Congress.

Have you been a part of any effort to find a more permanent solution instead of these piecemeal approaches?

Secretary Boyd. I have been involved in two meetings in this area, Mr. Keith. As a result of those two meetings, where I obviously didn't make much of a contribution, I have been made aware of the efforts which have gone on within the administration to attempt to devise the kind of legislation the president mentioned in his state of the Union message, and some knowledge of the very substantial number of people who have been involved in these efforts and who have not, to my knowledge, yet come forth with something which they feel is a satisfactory, long-term, permanent resolution.

Mr. KEITH. When were these two meetings in which you were involved?

Secretary BOYD. I do not remember. They have been since I was appointed Secretary.

Mr. KEITH. In the last 5 weeks?

Secretary BOYD. No. I was appointed Secretary on January 16, 1967. The Department began to function on April 1.

Mr. KEITH. There has been some discussion here about the alternative shipping that was available because of foreign flags using our ports. Is there not a parallel, to some extent, in this particular situation, in that we do have trucklines and we do have railroads where there are alternative routes? In those areas where there are competing trucklines, waterways, or parallel routes, should there not be some recognition of their right to continue in operation rather than having this legislation apply across the board?

Secretary BOYD. I know of no alternative routes available by rail if there is a nationwide rail strike.

Mr. KEITH. No parallel lines?

Secretary BOYD. Not to my knowledge. By definition, I would think that a nationwide rail strike would put all rail lines out of business. In my testimony on page 5, at the bottom of the page, my statement was that estimates of excess capacity available from other modes place the maximum divertible amount of traffic at 10 percent of the normal rail volume, and that only after extensive adjustment in traffic patterns achieved over a number of weeks.

Even this low figure does not account for the specialized handling requirements of much of the traffic normally carried by rail.

Mr. KEITH. Are there any alternative approaches to this problem that you personally think are worthy of this committee's consideration if the administration fails to come up with a proposal?

Secretary BOYD. I know of none.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. MACDONALD. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Secretary, I apologize for being delayed. I read over your testimony very carefully, and I think your statement is an excellent one. I think we sometimes get off base in forgetting the public interest.

As I read your statement, I think you have tried to stress the public interest in this whole matter.

Secretary BOYD. Yes, sir.

Mr. ROGERS. And I am concerned about it, of course, as a Member of Congress. Of course, we do want to protect the collective bargaining where we can, but the public interest must prevail.

We have gone into the matter of how you would set priorities of essential goods, if it were decided to do nothing but just let them move essential goods. I would think you could get into rather prolonged negotiations about what might be essential to a community. A man who is going to be put out of a job because they can't get coal for a manufacturing plant might feel he is pretty vitally affected and would feel it were an emergency.

I would think then we could get into a discussion and we would have to have an emergency board to get them together on that and

another emergency board, maybe, as we have today. What would be your comment on that?

Secretary BOYD. I think, as I attempted to outline to Mr. Macdonald, given all the good faith in the world, which I accept, on both sides of this issue, the mechanical problem of trying to define "essential" or "necessary," I believe, in the words of the telegram, commodities for movement, I think, is just going to be a mare's nest.

Mr. ROGERS. I would think it would be very difficult. As I understand it, the Chairman of the Council of Economic Advisers has advised the President that it would be very serious, that it would have a disastrous effect upon the economy of the country at this time. The Defense Department said it would vitally affect our effort in Vietnam.

Secretary BOYD. That is correct.

Mr. ROGERS. I don't know how much more documentation we need than the facts presented so far. I would be concerned that we don't get off track and forget the public interest and the interest of the Nation as we consider this problem.

Thank you.

Mr. MACDONALD. Mr. Broyhill?

Mr. BROYHILL. Mr. Secretary, did your Department research and determine that the President has no legal authority to seize the railroads or to prevent a strike of this kind?

Secretary BOYD. Our Department has done no research in this area. I have been advised by the Attorney General that the President has no further authority in this matter.

Mr. BROYHILL. The authority that the President used in the 1950 strike is no longer applicable? Have you gone into that?

Secretary BOYD. No; I have not gone into it. I have not gone beyond the statement of the Attorney General, as a matter of fact.

Mr. BROYHILL. Thank you.

That is all.

Mr. MACDONALD. Mr. Kornegay.

Mr. KORNEGAY. Thank you, Mr. Chairman.

Mr. Secretary, it is nice to see you here today.

Secretary BOYD. Thank you, sir.

Mr. KORNEGAY. This is a very difficult problem that we all have to struggle with.

A while ago, pursuant to the question put to you by Mr. Moss, you did not say that the Nation at any time in the future should tolerate a nationwide strike.

Secretary BOYD. Yes, sir.

Mr. KORNEGAY. I gather from your answer that you referred to the international and national conditions existing at the moment. What is the condition of today? Can we tolerate it at the moment or next week?

Secretary BOYD. No, sir, that is the burden of my testimony, that we cannot at this time tolerate a nationwide rail strike. I tried to make clear in my conversation with Congressman Moss that I do not believe a rail strike would lead to the destruction of the United States of America. I don't mean, when I say we cannot tolerate, it is a matter of survival or destruction as a nation. Obviously I don't think that would happen. What I do think is, my subjective judgment based on the information which I have presented in my testimony is, it is a

greater burden on the public interest than it should be required to bear at this juncture because of the issues which are still before the two parties.

Mr. KORNEGAY. Let me interrupt you there to say this: Based upon your knowledge of the situation, and the issues involved between the two parties, if there were a strike, how long do you think that strike would last before an agreement could be reached by the parties?

Secretary BOYD. I have no idea, Mr. Kornegay. I don't think that is something I would estimate. I am completely unable to assess that situation.

Mr. KORNEGAY. We have had only one nationwide rail stoppage since 1946?

Secretary BOYD. That was in 1946.

Mr. KORNEGAY. That was in 1946; what was the duration of that?

Secretary BOYD. Two days, 48 hours.

Mr. KORNEGAY. Was agreement reached within 48 hours by the parties in that case? I don't recall the details of that.

Secretary BOYD. That was the 1946 seizure case, as I understand it.

Mr. KORNEGAY. And what happened after the seizure?

Secretary BOYD. The brotherhood returned to work and over a period of time, and I do not know the extent of the time, on the basis of continued bargaining, there was agreement reached.

Mr. MACDONALD. Will the gentleman yield for one question?

Mr. KORNEGAY. Yes.

Mr. MACDONALD. Mr. Boyd, I know you are not from the Labor Department, but don't you believe that every time the Congress or the Government intervenes in collective bargaining, that it further weakens the whole fabric of collective bargaining and that both sides in a dispute will just say—

We don't have to really bargain in good faith because the Government will step in and either seize or order us back to work. Therefore, we don't really have to make up our minds between ourselves.

Secretary BOYD. Mr. Chairman, I don't know how to answer that question. The Government has intervened in a number of cases, through Taft-Hartley and through other activities authorized by law over the period of years just going back to World War II.

Yet in the railroad industry today, it is my understanding that on the basis of collective bargaining nearly three-quarters of the railroad brotherhoods, the total employees of the railroad industry, through the collective bargaining process, have reached agreements. That is, I believe, one of the critical elements here, whether or not there can be some agreement in this remaining area which is not going to have the effect of dynamiting the agreements which have been reached with 70 percent of the brotherhoods, of the employees.

Mr. KORNEGAY. That was one of the things that concerned me, and I am sure it concerns everybody else. That is, that a great majority have reached an agreement.

Secretary BOYD. That is my understanding.

Mr. KORNEGAY. You have to have all of the elements, I am sure, in order to run a railroad. You can't have everybody standing there except one man, maybe, who does a certain thing essential to the operation. Of course, this affects not only those for whom settlement has not been reached, but all the others standing by who are perfectly

happy and satisfied, apparently, with the agreement that has been reached.

Mr. PICKLE. Would the gentleman yield?

Mr. KORNEGAY. If you will yield back to me.

Mr. MACDONALD. You don't have very much time to yield.

Mr. KORNEGAY. How much time have I left?

Mr. MACDONALD. Not very much.

Mr. PICKLE. I will withdraw my request.

Mr. KORNEGAY. I have another question.

The question has been brought up, of course, about priorities in the event of a strike, and it would be very difficult, I am sure, to determine all of the raw materials and medicines and things of that sort. Who would determine, if you know, what is necessary under the wording of the telegram referred to by Mr. Macdonald?

Secretary BOYD. I don't have any knowledge. I don't believe that was covered in the telegram. I cannot imply any answer.

Mr. KORNEGAY. Have we had any prior experience with this type of limited offer?

Secretary BOYD. My understanding is that there was a similar offer at the time of the firemen's strike in 1966, and that the Department of Defense, which felt that its requirements were essential for Vietnam indicated that it would not work as a practical matter, that they had chaos.

Mr. KORNEGAY. One final question: Mr. Secretary, insofar as you know, do the parties to this dispute know, and have they known for some time, of the impact of a strike, of the facts that you brought out today regarding the seriousness of it?

Secretary BOYD. I do not know. I cannot give you a factual answer.

Mr. KORNEGAY. Thank you very much.

Mr. MACDONALD. Mr. Harvey?

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Secretary, I would like you to refer to page 8 of your statement, the last sentence thereon. You say,

> During a Presidentially-declared emergency, the Department of Transportation could, by executive order, be charged with coordinating the movement of essential commodities in a manner which would permit priority utilization of available capacity of other modes.

My questions are: When you speak of priority utilization of available capacity of other modes, are you talking about truck lines, the airlines, or what have you in mind?

Secretary BOYD. Under various statutes, as I understand it, the President of the United States is empowered to declare a national emergency, and with such declaration he is empowered to designate what personnel and commodities may be moved. That could be delegated to the department.

Mr. HARVEY. Is this a situation short of war that you are talking about?

Secretary BOYD. No, it is not. As I understand the present laws, they refer to a war or something similar to a war.

Mr. HARVEY. But this is authority on the books today for the President to seize? I wonder if we could have that citation.

Secretary BOYD. I do not understand that what we are talking about is seizure, Mr. Harvey.

Mr. HARVEY. I beg your pardon?

Secretary BOYD. I do not understand that what we are talking about is seizure in any way, shape or form. What I understand to be involved is that the transportation companies would operate as they do now. The Government would be in a position to allocate the priorities to be moved by these private operators in their continued private operation.

Mr. HARVEY. This would be something less than seizure for the trucklines?

Secretary BOYD. I don't understand the seizure connotation at all.

Mr. HARVEY. I am trying to understand your language in your statement. What bothers me is that if I understand this correctly, what you are saying is that the trucklines would be forced to abandon commitments which they otherwise had to haul goods on some order by you in a situation something less than a war, I take it.

Secretary BOYD. I didn't mean something less than a war.

Mr. HARVEY. But at any rate, there is statutory authority for this particular situation at the present time?

Secretary BOYD. In event of war.

Mr. HARVEY. I would appreciate receiving that authority. If you don't have it here, I would appreciate it being supplied for the record.

Secretary BOYD. I will provide what information we have, Mr. Harvey.

(For information requested see correspondence at end of testimony, p. 110.)

Mr. MACDONALD. Would you yield for a short question?

Mr. HARVEY. Yes.

Mr. MACDONALD. What is Vietnam if it is not a war?

Secretary BOYD. I am completely unable to characterize that, Mr. Macdonald.

Mr. MACDONALD. You don't think it is akin to a war?

Secretary BOYD. It is certainly combat.

Mr. MACDONALD. But the troops, troop movements, are one of the reasons you gave as being in the public interest to force these people back to work. I was wondering if troops don't have a connotation of a war, of killing an enemy, moving troops around to foreign countries. That is not a war?

Secretary BOYD. As a layman, I would call it a war, Mr. Macdonald. As a Government official, I am unable to give you the precise terminology by which this is described as a legal matter.

Mr. MACDONALD. I am not trying to embarrass you, Mr. Secretary. But with regard to the question asked by Mr. Harvey, I thought I would clear this up.

Secretary BOYD. As a legal matter, I do not understand that the United States is in a "state of war." I am unable to give you any of the interpretation or implications of that.

Mr. ADAMS. Mr. Chairman?

Mr. MACDONALD. Mr. Harvey has yielded to me for just these brief moments.

I would like to clear up the Section 472 that President Truman relied upon. He said, "In time of war, when we have controlled transportation." But I suppose you wouldn't say this is in time of war.

Secretary BOYD. My understanding of that is that that relates to a declaration of war by the Congress of the United States, that "in time of war" comes from that action by the Congress.

Mr. MACDONALD. I wasn't in Congress, but my memory is that in Korea Mr. Truman never declared that a war, either.

Secretary BOYD. I am not sure myself.

Mr. MACDONALD. You can take my word for it, he didn't.

Mr. ADAMS. Would the chairman yield on that point?

Mr. MACDONALD. I yield back to Mr. Harvey.

Mr. HARVEY. May I say, Mr. Secretary, this whole area seems very hazy, it seems to me, in your statement. Where you speak of "in the priority utilization of the available capacity of other modes," I would like to know just what authority you think you have for this action less than seizure of the trucklines, the airlines or the other modes. I gather this, No. 1, it is less than seizure, and, number two, it is in a state of war, which we are not in right now, according to your thinking.

In any event, I think it would be helpful to the committee to amplify the authority you have and set forth what the statutory authority is for it.

With that, I will yield back to the committee my balance of time.

Mr. MACDONALD. Mr. Van Deerlin.

Mr. VAN DEERLIN. I yield to the gentleman from Washington.

Mr. ADAMS. On behalf of the committee, would you supply to the committee the status of the emergency powers granted to the President after World War I and during World War II, and during the Korean emergency, which I understand are still in existence and continue through to this day?

Secretary BOYD. Yes, sir.

Mr. ADAMS. We would like to have them by tomorrow when the next witness comes.

I think all that is required here is not a declaration of war but a declaration of a national emergency, within the powers of the President. If you would specifically supply it, we would appreciate it. I think I have referred you to where it can be found.

Secretary BOYD. I will be delighted.

Mr. ADAMS. There was another question, Mr. Boyd.

Don't you presently, and we appreciate very much your coming here so soon after having tried to start the Department, but it is not true that you presently have within your Department now the Defense Transportation Department?

In other words, it has been shifted from the Department of Defense to your area?

Secretary BOYD. No, sir.

Mr. ADAMS. That is not true?

Secretary BOYD. No, sir. I am not sure what you are referring to, but nothing in that area has been transferred from the Department of Defense. I will put it this way: The only functions which were transferred to the Department of Transportation from Defense were certain civil functions of the Corps of Engineers, which have nothing whatsoever to do with any emergency activities.

Mr. ADAMS. Then as to the Department of Defense transportation we would have to inquire about from the Defense Department? You are certain there is no jurisdiction in your Department on that?

Secretary BOYD. That is correct.

(For further information see correspondence at end of testimony, p. 110.)

Mr. ADAMS. Mr. Boyd, you have testified that basically you are here to discuss impact.

Secretary BOYD. Yes, sir.

Mr. ADAMS. And not to discuss the labor negotiations portion of it. But your Department now has jurisdiction over the railroads. Is it not true that you presently have in the railroad industry, in effect, a Government-regulated monopoly situation? In other words, that certificates of public convenience and necessity are required, and rates are set, and all of these things will be in the jurisdiction of your Department?

Secretary BOYD. No, sir.

Mr. ADAMS. I withdraw that. You have substantial jurisdiction in the railroad area, though. I remember now we do have the other.

Placing these together in a nationwide bargaining position, as we have them, and putting together the situation that any type of strike that occurs is going to not affect individual lines but is going to put us into this area of the national emergency that you mentioned then is it not true that if this committee goes through with Resolution 559 which you recommend on page 9 of your statement, that we have, in effect, stated what the terms and conditions will be in this industry?

Secretary BOYD. No, sir, I don't think that follows. I believe I can do no more than accept the statement of Secretary Wirtz who testified yesterday, which is his belief, that if this resolution is adopted, the parties will, through collective bargaining, reach agreement before anything else happens.

Mr. ADAMS. You have testified that the only time prior that we have had such an agreement was after a strike plus a later seizure which placed the parties in a position where they would bargain. I don't want you to go into the collective bargaining aspects, because we will go back to Mr. Wirtz on that.

I would however like you to state from the public interest viewpoint, in the emergency that we have now, what pressure there will be on the management in this case to settle this strike when, in effect, there will be an injunction against the men striking, and the rates established by the government.

You have stated very clearly we will not have an operation change and no strike at this time. What is going to make the companies and no strike at this time. What is going to make the companies bargain?

Secretary BOYD. That requires a very subjective judgment which I am unable to give you, Mr. Adams. I am somewhat confused in this whole area because we have the Railway Labor Act which provides for the establishment of emergency boards, and my recollection is that at least within the recent past historically the railroad industry has accepted the findings of the emergency boards who are comprised of individuals drawn from society with knowledge of collective bargaining and of the industry, and, drawing on that, I would assume that they are prepared to reach an agreement which is within the pattern of the other agreements which they have reached.

Mr. MACDONALD. The time of the gentleman from California has expired.

Dr. Carter.

Mr. CARTER. Mr. Secretary, I certainly think you have presented a fine statement. We realize that you have not been in your present capacity long enough to get the seat warm and we realize the dreadful problem facing the country today.

However, we do know that in 1950 the railroads were taken over by the Federal Government into the Department of the Army. What was the basis of this takeover?

Secretary BOYD. If I may cite Mr. Adams as my authority, it was the statutory authority which was granted to the President of the United States in connection with World War II.

Mr. CARTER. World War II has been over since 1946, of course.

Secretary BOYD. My understanding from Mr. Adams is that the emergency legislation which was provided to the President had not been repealed.

Mr. CARTER. Has it been repealed today?

Secretary BOYD. Again citing Mr. Adams, it is still in effect.

Mr. CARTER. Then this might be used as well during this Vietnam conflict or police action, as well as it was used during the Korean disaster, is that true?

Secretary BOYD. If that is the case, I would think yes, it could be. I am going to attempt to find out and provide for the committee what the situation actually is.

Mr. CARTER. I yield to Mr. Springer.

Mr. SPRINGER. I would like to clear this up, Mr. Secretary, because I have been advised informally by the Attorney General that there exists no power in the President with reference to seizure.

Secretary BOYD. So have I.

Mr. SPRINGER. I think this ought to be clarified before this committee so we know accurately whether he does or does not have this power. I am citing only informally. He hasn't told me that face-to-face but I have made the inquiry and received that reply.

I don't think we ought to be under the impression that there is some law which nobody knows anything about. I can't assume that the Attorney General doesn't know what the law of this country is with reference to seizure. That would be one of the most important pieces of legislation that a Chief Executive could have in an emergency.

Who will supply this? Will you consult with the Attorney General and write us a letter?

Secretary BOYD. I will attempt to generate the information, Mr. Springer. It may come from the Attorney General or it may come from our office.

Mr. SPRINGER. I think the Attorney General ought to make a statement on this because if this is not true, then this committee is generally under the impression, as of this morning, that they should not be under.

Mr. Adams has raised a different question. He cited a piece of legislation and seems to speak with some authority. I certainly want it clarified. Thank you.

Secretary BOYD. I will undertake to see that it is provided.

(For information requested see correspondence at end of testimony, p. 110.)

Mr. CARTER. There is a problem now of the Congress pulling the administration's chestnuts out of the fire as they did twice before, when the administration might well have the power, as it did in 1950, to accomplish the same thing now as it did then.

I yield back the balance of my time.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Secretary, I am glad to see you before the committee and I appreciate your statement this morning.

Going back to one of the earlier questions with regard to the inability of the present parties to get together, it was my understanding, according to the newspaper report, that just before the first extension was granted, five out of the six bargaining unions had reached agreement, and one had refused to agree to the offer.

Do you know which one of these groups did not want to have an agreement.

Secretary BOYD. I have no information on that, Mr. Pickle.

Mr. PICKLE. I wonder if the gentleman with you knows.

I am advised that it was the Mechanics or that group, the Shop Workers. Is that correct?

Mr. SCOTT HARVEY. I am not aware of the fact that it is. I think you will have to ask that of the union members themselves.

Mr. PICKLE. I would like to have that put into the record, too. I just wonder if it is the same group that was party to the five-airline difficulty we had last year.

Secretary BOYD. My belief is, Mr. Pickle, that the only source for that information would be the brotherhoods themselves.

Mr. PICKLE. Then you wouldn't have any comment as to whether this is a power play between unions?

Secretary BOYD. I have no knowledge on that subject.

Mr. PICKLE. We have talked a good bit in the last several questions about Government and what powers the Government would have with relations to seizure.

I am speaking as one individual. It seems to me like we are just chasing rabbits. We are doing a lot of talking about what the Government does or does not have with respect to seizure, hoping we would have some authority to prevent the country getting completely tied into a catastrophic knot. But whether we have that power or not, it seems to me like all you are trying to say, in terms of seizure, would be that that would be more palatable.

My thinking is if we do not pass 559, as I see it, the only alternative then would be, one, that the Congress do nothing, and just let the country get into a complete breakdown of transportation with respect to rails; second, the Government, if it has power, would have to go into some kind of a seizure, and if we don't pass this bill the only alternative, in effect, would be for the Government somehow or another to try to have seizure.

My question is: Wouldn't it follow-on, then, that if we don't do something, if we don't pass this resolution, that inevitably this committee and this Congress is going to have to consider the possibility of passing something that would be compulsory arbitration?

Secretary BOYD. I think you have outlined what the possible choices are, Mr. Pickle, very clearly.

Mr. PICKLE. My question to you is what is your opinion about it.

Secretary BOYD. If the Congress does nothing at this stage of the game, and if, as the Attorney General has indicated, the executive branch of the Government has no legal power to take any further action, then either we are going to have a strike of some undetermined duration or this will be back in the lap of the Congress to do something about.

Mr. PICKLE. Then if we don't pass this, the net of it is that this committee, this Congress, must consider some kind of permanent legislation with respect to emergency work stoppages in the transportation field. Or if you want to put it more bluntly, we will either have this or compulsory arbitration.

Is that an unfair analysis?

Secretary BOYD. My own personal judgment is that if the Congress does nothing and there is a strike, there will then be compulsory arbitration legislation enacted by the Congress, which I do not favor.

Mr. PICKLE. I don't think anybody on the committee, regardless of what feelings we might have, really wants to see compulsory arbitration forced on the workers of this country.

In the transportation field we have reached the point where we can't have national strikes of this kind.

My personal thought is that sooner or later this Congress will have to face the task of drafting legislation that would amend the present Railway Labor Act, to try to extend collective bargaining, to give it a chance to work, or else we will have to have compulsory arbitration.

Would you venture an opinion on that?

Secretary BOYD. I don't know. The other alternative may be to just let the situation ride. Getting back to priorities, it gets to be a question of whether the right of collective bargaining is stronger than the right of anything else in this country.

Mr. PICKLE. I think that is a correct analysis.

In conclusion, I want to say that I appreciate your testimony. I did not hear the first part of the hearing this morning in which the chairman was concerned about your earlier statement. It is not objectionable to me.

It seems to me like it has been common knowledge that the purpose was to talk about whether a railway strike would cripple this country or not. Any statements you would make on it are certainly not objectionable to me.

I appreciate your testimony.

The CHAIRMAN. I would like to state to the gentleman, in defense of my position, that I do not believe ever it is a crime to find anything in the public press in this country. I stand by the statement I made when I opened the committee.

The gentleman from Colorado, Mr. Brotzman.

Mr. BROTZMAN. Mr. Secretary, we are getting pretty far down on the committee and a lot of questions have been asked you. I have listened to you testify and I have also gone over your statement again.

I think it would be fair to say that you have very carefully tried to limit your testimony to the question of "impact" and to limit it to this specific series of occurrences.

I think that would be a fair statement.

Secretary BOYD. Yes, sir.

Mr. BROTZMAN. The questions I really want to ask you probably relate to information that you are going to get from your research contracts. You are charged with a tremendous responsibility, of course, to manage the transportation of our country.

I think we are going to have to have some very careful evaluation as to how much impact this Nation can absorb. I believe you stated that you felt "the economy should not have to bear the impact" of this particular strike.

Secretary BOYD. Yes, sir, certainly because of the issues that are involved here, and how close these parties are.

Mr. BROTZMAN. What I am really leading up to is that we have a question of determining what to do in regards to this specific series of facts, but we have to be, I think, looking ahead as to the whole pattern in transportation as related to the labor-management field.

At this particular time, Mr. Secretary, do you have an opinion as to whether or not the Congress should be dealing with this problem on a one-shot arrangement, or do you feel that there should be a more permanent type of legislation that is more prospective in its nature?

Secretary BOYD. I am very much in favor of the ad hoc approach, Mr. Brotzman.

As I said in my statement, I am not an expert in this field at all.

Mr. BROTZMAN. I wanted to say that you can't disclaim expertise ultimately because these things are all related to the question of transportation and this field is your responsibility.

I think right now we need some guidance and we need some expert testimony of the type that would help us to determine what really is best to do in the national interest.

I frankly haven't made up my own mind as to whether this is the best approach or whether some other approach is better.

You presently favor, as I understand it, the ad hoc approach. Is that correct?

Secretary BOYD. This is the only feasible approach, in my judgment, that is available today for this situation.

Mr. BROTZMAN. That is predicated on the fact that you do not have all the information that you think you are going to be able to obtain through your research; is that correct?

Secretary BOYD. No; that goes to a different point, Mr. Brotzman. The information which we expect to be able to obtain as a result of these research contracts is a major improvement in our ability to measure impact on the economy and the society.

Mr. BROTZMAN. Let me express a feeling I have. Yesterday, we had the Secretary of Labor here, Mr. Wirtz, and today we have you. Undoubtedly we will have some more members of the Cabinet.

It seems to me like there isn't any dovetailing of this decisionmaking because one will say, "This is in someone else's area," and I can't get down to the real tough questions on this. It seems like there is overlapping, or, if not that, not consistent agreement.

Let me ask you this specific question and I will conclude. I think we mentioned this heretofore. Are you, in fact, working with other individuals now to try to propose something of a more permanent nature or to decide whether or not this is necessary?

Secretary BOYD. I am not personally at this moment working on that.

Mr. BROTZMAN. Did I understand that you were a part of some committee or some meeting relative to this subject?

Secretary BOYD. I said that I sat in on two meetings of groups who has been working on this matter for some time. I can't honestly tell you whether I am now a member of the group or what.

Mr. BROTZMAN. I don't want to betray any confidential communications, but can you tell me who was working with you on that?

Secretary BOYD. No, sir, I am not at liberty to do that.

Mr. MACDONALD (presiding). The time of the gentleman has expired.

Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Boyd, I don't think there is any question here that the No. 1 consideration before us is whether or not this Nation, in terms of its national interest, can afford a strike.

In this sense, I would like to follow up a statement you made to a question posed by the gentleman from Colorado.

As I understand it, you have stated, in essence, that a strike would not destroy this country, but that it would be too great a burden to bear based on the issues between the parties.

Secretary BOYD. Yes, sir.

Mr. SATTERFIELD. Am I to infer from this that if the issues were different, or perhaps the parties were a little further apart on the issues, that this burden then might be justified?

Secretary BOYD. I make no judgment on that, Mr. Satterfield. I am merely trying to relate my testimony to the facts and have made no judgments on other contingent possibilities which do not exist.

Mr. SATTERFIELD. In your own opinion, if this strike were to occur, do you believe it would develop a national emergency?

Secretary BOYD. Yes; certainly I do, depending on the duration of the strike. A nationwide rail strike of any sustained period, I think, would constitute a national emergency.

Mr. SATTERFIELD. Then the whole thrust of your statement this morning—I take it from that answer—is that, aside from the issues that might be involved, a strike of undetermined duration would produce the type of emergency that you feel would be against the public interest?

Secretary BOYD. I think any strike, in the light of the circumstances of these negotiations, would be detrimental to the public interest. I think a strike, regardless of the issues, of any sustained period, would be a national emergency.

Mr. SATTERFIELD. In the final analysis, the issues between the parties really don't obtain, in determining whether or not from the standpoint of national interest we can afford a strike?

Secretary BOYD. Not in terms of impact; no, sir.

Mr. SATTERFIELD. Thank you.

Mr. MACDONALD. Mr. Satterfield, would you yield for a moment?

Mr. SATTERFIELD. Yes.

Mr. MACDONALD. Your answer to Mr. Satterfield, Mr. Secretary, was that said with knowledge of the telegram that was sent to the Department of Defense and acknowledged, that they will not interfere with anything necessary for defense in Vietnam or anyplace else, or any health movements?

Secretary BOYD. I was trying to respond to Mr. Satterfield's question within the context of his question. I was not relating it to the telegram to which you have referred.

Mr. MACDONALD. Isn't that a very important thing, that these people who are a party to the strike say in their own words that they will arrange continued rail transport of all shipments necessary to our Nation's military effort and the public health? Doesn't that change the entire complex of the matter?

Secretary BOYD. No; I don't think it changes the entire complex.

Mr. MACDONALD. Perhaps I overstated myself. Isn't that a major change?

Secretary BOYD. It is a factor.

Mr. MACDONALD. Is it a factor that you had in mind when you answered Mr. Satterfield?

Secretary BOYD. No. As I said, I answered his question in the terms in which it was placed.

Mr. MACDONALD. Could I ask you the same question, bearing in mind this telegram and its acknowledgement by the Defense Department?

Secretary BOYD. I would accept the telegram as not being an empty gesture. I would accept it as being sent in good faith. I would consider that the acknowledgement meant nothing more than that the telegram had been received.

I still have the problem which we discussed earlier, and that is that I do not know what is meant by "necessary movement," and I do not know who the brotherhoods feel would be deciding what was necessary and what was not necessary.

Mr. MACDONALD. You are at a disadvantage, I think, Mr. Secretary, because you don't have a copy of the telegram. You keep misinterpreting the telegram. I will repeat again that the brotherhoods' offer is to meet with whomever the Secretary of Defense determines proper to be met with, to arrange for continued rail transport for all shipments necessary to our Nation's military effort and the public health.

Mr. ROGERS. Would the gentleman yield?

Mr. MACDONALD. After I get an answer from the Secretary I will be happy to yield.

Mr. Satterfield actually has the floor at this time.

Secretary BOYD. I reiterate that it would be a factor, Mr. Macdonald. The fact remains that in discussing impact this morning, economic impact goes far beyond what would constitute, I think by anyone's definition, vis-a-vis the Department of Defense and the railroad brotherhoods, necessary to the national defense and public health.

I think if we were to speculate on a strike for a month, given a broad interpretation of the language in that telegram, we would still have a disastrous impact on the economy of the United States.

Mr. MACDONALD. I yield back to Mr. Satterfield.

Mr. SATTERFIELD. I yield to the gentleman from Florida.

Mr. ROGERS. I think the point has been made, that the two factors critical to the Nation are not just defense and health alone.

Secretary BOYD. That is correct.

Mr. ROGERS. I think this has been brought out in the testimony and from the President's Council of Economic Advisers.

Mr. DINGELL. Will the gentleman yield to me?

Mr. MACDONALD. The gentleman is out of time.

Mr. Brown.

Mr. BROWN. Mr. Secretary, as I understand from the testimony yesterday of Mr. Wirtz, the Secretary of Labor, if we pass 559, by January 1, 1969, if the procedures outlined in the resolution all take effect and the 91st day comes, and there is whatever we might call it short of compulsory arbitration—but nevertheless it is temporary 2-year settlement of this dispute—what happens after January 1, 1969?

Secretary BOYD. First of all, as I understand it, the language of the resolution is up to 2-years, not to exceed 2-years. But whatever the date is, then the brotherhoods and the railroads would be in negotiation prior to that time, would have been in negotiation, for a new contract.

Mr. BROWN. Under the provisions of the Railway Labor Act?

Secretary BOYD. Yes, sir.

Mr. BROWN. And presumably, then, if they weren't able to settle, we would start over again on the same procedure?

Secretary BOYD. It is entirely possible.

Mr. BROWN. This resolution would become precedent to that sort of thing, would it not?

Secretary BOYD. I should think very probably it would. If anyone sought the same sort of solution again, they would obviously utilize this act as a precedent.

Mr. BROWN. So, in effect, we may have eliminated the possibility of any future nationwide rail strike by passing this resolution?

Secretary BOYD. I don't think that follows.

Mr. BROWN. Why not?

Secretary BOYD. Because the Congress would have to vote on that.

Mr. BROWN. Well, the Congress having voted on it once before, has a precedent for such a vote, is that correct?

Secretary BOYD. It might be of a different temper.

Mr. BROWN. In other words, are you suggesting that we might, 2 years hence, be ready to take a nationwide rail strike?

Secretary BOYD. All I am saying is that the temper of the Congress might be different at that time than it is today.

Mr. BROWN. Would you accept the fact that passage of this resolution does become a precedent for its passage in the future?

Secretary BOYD. If I were to advocate a solution of the same type in the future, I would certainly attempt to use this action as a precedent.

Mr. BROWN. So it does become a precedent.

Secretary BOYD. To an advocate, certainly it becomes a precedent. To the judge, I don't know whether it is a precedent or not.

Mr. BROWN. You indicated that you would be willing to take this as a precedent in arguing it.

Secretary BOYD. If I were seeking the same kind of solution. If I were seeking a different kind of solution, I would attempt to point out why it didn't meet the new requirements.

Mr. BROWN. I am contributing my time to the edification of the committee. The Secretary of Labor said yesterday that the President would not, after June 19, have any power to resolve this strike. He did not make clear whether the President had an opportunity to resolve this strike by some action of his own prior to that date. Un-

fortunately, my turn in questioning didn't come yesterday, so I didn't get to explore that point with him.

What are the choices besides this resolution that you see, Mr. Secretary, for the resolution of this situation short of a strike at this time?

Secretary BOYD. The only one that I can see is seizure. That is short of a strike.

Mr. BROWN. The Secretary suggested another possibility, and that was compulsory arbitration. Are you not drawing a distinction between this resolution and compulsory arbitration?

Secretary BOYD. Yes, compulsory arbitration would certainly have the same effect.

Mr. BROWN. You suggested, I think, in your colloquy with Mr. Pickle that if we didn't pass this resolution the Congress would undoubtedly pass some form of compulsory arbitration.

Did I understand you to say that?

Secretary BOYD. I said that is my personal judgment of what will result if there is a nationwide rail strike.

Mr. BROWN. Based on the temper of the Congress and of the necessity.

Secretary BOYD. Yes, sir.

Mr. BROWN. Let us remove ourselves from this extremity now and emergency situation in which we find ourselves as a nation with reference to this strike. Let me ask you: Is permanent resolution to resolve or eliminate the recurrence of such strikes desirable?

Secretary BOYD. I am not prepared to say yes. I don't know enough about it, Mr. Brown. I have not been involved in this area of labor-management. I am just now beginning to learn.

Mr. BROWN. I am not asking with reference to labor-management. I am asking with reference to the transportation circumstance in our Nation. You have certainly been involved in that for some time.

Secretary BOYD. Yes, I have. It is a balancing of values. Certainly it is important to have a functioning transportation system. Certainly it is important to have the right of collective bargaining.

I am not prepared to say that the importance of the functioning transportation system at all times, under all circumstances outweighs the importance of the right of collective bargaining.

Mr. BROWN. My question is should we have permanent legislation in this field.

Mr. MACDONALD. The time of the gentleman will have expired after he receives an answer.

Secretary BOYD. I do not know of any permanent legislation that would be satisfactory, just, and equitable.

Mr. BROWN. So we should handle this on an ad hoc basis.

Secretary BOYD. Yes.

Mr. MACDONALD. Mr. Adams.

Mr. ADAMS. Mr. Secretary, I can give you the five points to look at on this seizure and then I want to follow as to the reason why it is important that we discuss it. There are five things:

First, whether or not there is a war power.

This would be under 10 U.S. Code 4742. The key question there is whether or not this requires a declaration of war or "a time of war." We would like to know the administration's position on this.

Second, we understand the war in Japan is over by the treaty. The question becomes whether or not the war with Germany, which has never been terminated by treaty, is over.

Secretary BOYD. The Second World War is still going on.

Mr. ADAMS. Third, there was a declaration of the Korean emergency which has never been terminated. We would like to know what the powers are considered to be under that.

Fourth, there is the general constitutional power which was relied upon once by President Truman.

Now the reason this becomes important. There is another alternative. I disagree with my colleague from Texas. The other alternative is one we have talked about. It is compulsory negotiation. Compulsory negotiation is based on the fact that you make the choice unpalatable of what will happen to both parties and, therefore, they will arrive at a solution.

That is why I asked you the question before.

Have you any position with regard to whether or not this committee should recommend a statute that would, in effect, at the end of this period of required negotiations, say to the parties. "We will enjoin one side and seize the other and put into effect these work rules until you can agree"?

Secretary BOYD. No, sir; I have no position on that.

Mr. ADAMS. Does the gentleman from California want some time back?

Mr. VAN DEERLIN. No, Mr. Adams.

Mr. ADAMS. With regard to whether or not there is at the present time an emergency, it is your position, as I understand it, that the starting of a strike for any period of time would be an emergency?

Secretary BOYD. No, sir; that is not my position.

Mr. ADAMS. A strike beyond short duration?

Secretary BOYD. Any strike beyond short duration, I think—a nationwide rail strike—would constitute a national emergency.

Mr. ADAMS. Has there been any discussion in the administration as to if there should be a seizure or an impounding of profits during a period of time while the parties were both being held and in effect being required to negotiate. whether the Department of Transportation, the Department of Defense, or some other department would be the one that would be involved?

Secretary BOYD. No, sir.

Mr. ADAMS. Do you have a recommendation on this?

Secretary BOYD. No, sir.

Mr. ADAMS. The last question that I have is this: Are you aware of the fact that in the railroad industry at the present time compulsory arbitration covers all grievances and all matters up to what are considered major labor disputes?

Secretary BOYD. The National Railroad Adjustment Boards; yes, sir.

Mr. ADAMS. Are you aware of the fact that it is the announced position of the National Railway Labor Conference that compulsory arbitration or, in effect, the establishment of conditions, is to be desired in the railroad industry overall?

Secretary BOYD. No, sir.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Secretary, it seems your patience is endless and I want to congratulate you on it.

It seems that of the five parties involved here, the administration, the Congress, labor, management, and the general public, four of these five interested parties, the first four I named, not including the general public, are rather playing around a Maypole avoiding one thing: We admit almost everything. You presented your case well.

The impact this possible rail strike would have on the economy has just been clarified by you. I think we were all pretty well aware of it and all pretty well have to agree we have to avoid it.

We are all avoiding this word "compulsion." The Congress doesn't want to use the word "compulsion" because constituents at home don't like it and they have to face up to them.

The administration, particularly the Secretary of Labor, spent yesterday avoiding the word "compulsion." I know the labor unions don't like the word "compulsion" and I know management doesn't like the word "compulsion."

All right, 90 days are up and they have not agreed. They have to accept something that neither of them agree to. Is this or is this not compulsion?

Secretary BOYD. If I were either party, I would certainly think so.

Mr. KUYKENDALL. I will yield the remainder of my time to Mr. Brown.

Mr. BROWN. There are certain competitive pressures, are there not, on the rail industry to settle the strike for fear of loss of their traffic to the trucking industry? Is that not correct? The trucking industry is viable now.

Secretary BOYD. Certainly there is always the fear of a shutdown in a transportation service industry resulting in traffic moving on substitute modes if it is possible to do so.

Mr. BROWN. And perhaps not returning?

Secretary BOYD. They face that possibility.

Mr. BROWN. If this strike were not nationwide, would it be less in its impact than it is as a nationwide strike?

Secretary BOYD. Clearly.

Mr. BROWN. If the trucking industry were also on strike, the impact, I gather, would be much greater?

Secretary BOYD. Yes, sir.

Mr. BROWN. Is there any possibility that we could work out a system whereby if there was not total involvement of the rail lines and all the rail unions at one time, this would tend to eliminate the possibility of a nationwide rail strike?

Secretary BOYD. I don't know how that would work, Mr. Brown.

Mr. BROWN. It might work by force of law.

Secretary BOYD. Yes. That would be the only way. As I gather, what is being suggested is the possibility of a law which says that a national brotherhood——

Mr. BROWN. I am not suggesting, I am asking a question.

Secretary BOYD (continuing). Brotherhood cannot negotiate on a national basis.

I go by the proposition that anything is possible, Mr. Brown.

Mr. BROWN. My question is: If this were not totally involving all the rail lines in the country, would it be less of a national emergency, and is there a possibility that you could eliminate the lack of settlement pressures by doing this?

In other words, would you increase competitive pressures on the rail industry to settle?

Secretary BOYD. On the basis of selective strikes rather than nationwide? I don't know the answer to that.

Mr. BROWN. You have no opinion?

Secretary BOYD. I have no opinion. I do have an opinion, if you have less than a national strike. Then you have less of an impact.

Mr. BROWN. That is what I am talking about. Would you give me your opinion, please?

Secretary BOYD. I am trying to answer you. If you have less of a national strike, you have less of an impact than you do with a national strike.

Mr. BROWN. And there would be greater competitive pressure to settle that strike?

Secretary BOYD. On that I have no knowledge.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. DINGELL. Thank you, Mr. Chairman.

I would like to refer, if I may, Mr. Secretary, to the telegram that was discussed by and between yourself and Mr. Macdonald.

I would like to know if there has been any action taken in the administration to scrutinize the contents of that telegram, to ascertain whether or not some movement of essential goods during a railroad strike has been studied by the administration, whether there are plans to utilize discussions toward this end as an alternative to the legislation presently before this committee.

Secretary BOYD. I have no knowledge as to any action being taken by the administration in relation to this telegram. This telegram, as I understand it, was directed to the Secretary of Defense. I have been sitting in this chair since I was advised of the telegram. I have not had any contact with the administration.

Mr. DINGELL. As Secretary of Transportation, it would appear that you would have some concern with the contents of that telegram.

It would also appear to me that a telegram similar to this should have been sent to you and to the Secretary of Labor. If such telegram were sent to you, would you think it would be incumbent on the administration to look at this as an alternative to the legislation before the committee?

Secretary BOYD. I don't see it as an alternative in any way, shape or form, Mr. Dingell.

Mr. DINGELL. If it moves essential goods and services, both from the standpoint of the Nation's health and welfare, and insofar as national defense is concerned, it is conceivable that, within the framework of that language, something might be worked out that might generally serve the national interest and still not involve the kind of incursion we have in collective bargaining as seen in the legislation before this committee; am I correct?

Secretary BOYD. I think there is a national interest which goes beyond essential defense and public health.

Mr. DINGELL. I understand that. But doesn't it appear that the exploration of this kind of offer is very much in the public interest by the administration?

Secretary BOYD. Certainly. But I don't see that that has any bearing on this.

Mr. DINGELL. I have no way of knowing what would come from these discussions any more than you do. But I am well satisfied that an offer of this kind should be scrutinized with great care. I hope you will agree with me. Is that correct?

Secretary BOYD. Yes, sir.

Mr. DINGELL. Now, Mr. Secretary, with regard to Presidential authority to seize the railroads, the act of August 29, 1961, title 10, United States Code, section 4742, reads as follows—

> Control of transportation system in time of war. In time of war, the President, through the Secretary of the Army, may take possession and assume control of all or any part of any system of transportation to transport troops, war material and equipment, or for other purposes related to the emergency.
>
> So far as necessary, he may use the system to the exclusion of other traffic.

We are now involved in a very serious conflict in Vietnam and, if it is not a war, we are shooting some $24 billion or $25 billion worth of munitions involving half a million American troops not to fight a war.

Has there been any scrutiny of the utilization of this section for the prevention of a nationwide railroad strike?

Secretary BOYD. Mr. Dingell, the only information I can give you is that in a conversation with the Attorney General of the United States, Ramsey Clark, I was advised by the Attorney General that the President has no legal authority at this stage of the game; that he has exercised all the legal authority he has available.

Mr. DINGELL. That is a bald statement. But you will agree that, in time of war, the President may take possession and assume control of the transportation system?

Secretary BOYD. I accept whatever the statute says. But Mr. Clark has to be the man who indicates and interprets the law for the administration.

Mr. DINGELL. Mr. Chairman, may I suggest it would be highly appropriate, before we go much more deeply into the legislation we have before us, to hear from the Attorney General on this matter.

I believe this is a very important point, lying very close to the heart of the issue presently before this committee.

Mr. MACDONALD. I am sure we will.

Mr. DINGELL. Thank you.

Mr. MACDONALD. Mr. Boyd, you have had a long day here, but I know of my own knowledge how good a witness you are for the Department you represent. You have been before us many times when you were with the CAB.

There is one very small thing and it is so small I shouldn't bother you with it. It deals with your duties as head of the Transportation Department and isn't strictly confined to this strike.

On page 8 of your testimony, you point out that in 1946 a strike called by the Firemen affected 32,000 commuters in Chicago and 12,000 in Boston, who shifted to other modes and produced serious traffic congestion.

That may be a historical fact, I don't know; but how many do you think would be affected, as a concrete example, in Boston now if the strike were to take place?

Secretary BOYD. I can't give you an answer on Boston. I can tell you that the information I have is to the effect that in excess of 700,000 persons per day use rail for commutation traffic primarily in Chicago, New York, and Philadelphia.

Mr. MACDONALD. And, therefore, the remark about Boston is sort of gratuitous?

Secretary BOYD. It is information which was accurate as a fact.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. My question cuts the same thing, Mr. Secretary, and perhaps I should only ask it to cite a bias, but I would like to get some figures on it.

What is the change in passenger impact and commuter impact since the strike of 1946? That was 21 years ago and we have built an Interstate Highway System and have taken off a great many passenger trains.

Is there some way you can tell us how those two things relate?

Secretary BOYD. I think we can provide that information. I do not have it readily available.

(For information requested see letter at end of testimony (p. 108).)

Mr. BROWN. I thought you might not. If you would provide it, I would appreciate it. I would also like to get some other factual information: What is the percentage of many processors, whom you refer to on page 5, who ship by full trainloads, 40 cars or more, versus those who ship by less than full trainloads and, I presume, less than 40 cars?

If you could supply that, I would like to have it.

Secretary BOYD. You want the ratio of the full-car shippers to the total shipments?

(For information requested see letter at end of testimony (p. 108).)

Mr. BROWN. The sentence said, "many processors ship full trainloads (40 cars or more) with reduced rates."

I would like to know what the percentage is of those processors versus the processors who ship by individual cars or a few cars at a time.

The reason this is significant for this hearing is I think, obviously, anybody who ships by 40 cars or a full trainload needs a train to work on, but anybody who ships a car or two at a time might be able to find an alternative method of shipment in case there is a rail strike.

Mr. ADAMS. Would the gentleman yield on that point?

I believe you have been discussing substitute modes of transportation, but as I understand from your testimony, Mr. Boyd, the real reason for your testimony on the impact and the national emergency is that there is no substitute means available that would have any type of significant impact to reduce the emergency situation if all of these railroads went on strike.

Secretary BOYD. That is correct. As I outline in my testimony, the best information we have is that all other modes of transportation collectively could, after a period of adjustment, pick up approxi-

mately 10 percent of the movement by rail. That is just on a pure tonnage basis. It has nothing to do with oversize commodities, with the various missiles, for example, Titan and others, which can only move by rail.

Mr. ADAMS. So your testimony about the danger of shifting to other modes of transportation is really a limited one, isn't it, a limited danger?

Secretary BOYD. Yes.

Mr. ADAMS. Thank you.

Mr. MACDONALD. The chairman has now returned.

The CHAIRMAN. I would like to say that we appreciate your coming up to give us the benefit of your views. You and I are necessarily on the same side on this subject, for the public interest and for no other interest, is that correct?

Secretary BOYD. Yes, sir.

The CHAIRMAN. I am elected for that purpose and you are appointed for that purpose.

Secretary BOYD. Yes, sir.

The CHAIRMAN. We are not for either railroads or labor, but we are here to see that justice is done.

Secretary BOYD. That is correct.

The CHAIRMAN. Perhaps my statement a little earlier was a little bit severe, but I still stand by it. I believe your place is here to tell us about your views, which you have done very well.

Secretary BOYD. Thank you, Mr. Chairman.

The CHAIRMAN. We appreciate your coming to give us the benefit of your views.

I might say, tomorrow morning we will continue with Secretary Wirtz, and some of the points brought up today can be asked of him.

I am sure your labor adviser can get information requested of him.

The hearing will be adjourned until 10 o'clock tomorrow morning.

(The following letter replying to questions posed during Mr. Boyd's appearance, was subsequently submitted by the Department of Transportation:)

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 23, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony on May 10, 1967 on the railway dispute, the Committee requested additional information on certain economic points.

Concerning the unemployment rate which would result from a month-long railroad strike, the additional unemployment of 6.5 million would produce an unemployment rate of from 12 to 12.5 percent, depending on seasonal conditions, as compared to an unemployment rate of 3.5 percent in April 1967. The normal unemployment rate for June or July would be somewhat higher due to the presence of students looking for work and could go up to approximately 4.0 percent. The unemployment rate resulting from a month-long rail strike would be considerably higher than any reached during the period since the 1930's.

Information was requested on changes in railroad traffic since 1946. While the rise of other transportation modes has contributed to a decline in the relative importance of rail transportation both for passengers and freight and a decline in absolute numbers of total passengers carried (as is shown in the table below), freight traffic has increased in absolute terms over 20 percent and the railroads

account for nearly twice as many ton-miles of intercity freight as the trucking industry (both for-hire and private). Commutation service, though less in the aggregate than in 1946, is still of crucial importance to such cities as Chicago, Philadelphia, and New York.

Trends in railroad traffic and the rail share of total intercity traffic

Year	Billions of passenger-miles			Percent rail of total intercity passenger-miles (public carriers)	Revenue freight	
	Total	Commutation	Other		Billions of ton-miles	Percent rail of total intercity freight ton-miles
1946	64.7	5.9	58.8	65.7	602.1	66.6
1947	45.9	6.0	39.9	59.5	664.5	65.3
1948	41.2	5.9	35.3	57.3	647.3	61.9
1949	35.1	5.5	29.6	48.6	534.7	58.4
1950	31.8	5.0	26.8	46.3	596.9	56.2
1951	34.6	4.9	29.7	45.9	655.4	55.6
1952	34.0	4.8	29.3	43.5	623.4	54.5
1953	31.7	4.8	26.9	40.5	614.2	51.0
1954	29.3	4.7	24.5	38.6	556.6	49.6
1955	28.5	4.8	23.7	36.5	631.4	49.5
1956	28.2	4.8	23.3	35.2	655.9	48.4
1957	25.9	4.9	21.0	33.7	626.2	46.9
1958	23.3	4.8	18.5	31.5	558.7	46.0
1959	22.0	4.5	17.5	29.0	582.5	45.0
1960	21.3	4.2	17.1	27.6	579.1	43.7
1961	20.3	4.1	16.2	26.6	570.0	42.9
1962	19.9	4.0	15.9	24.7	600.0	43.1
1963	18.5	4.1	14.4	21.6	629.3	43.4
1964	18.3	4.2	14.0	19.6	666.2	43.3
1965	17.5	4.1	13.3	(1)	708.7	43.0
1966(p)	17.2	4.2	13.0	(1)	740.0	(1)

[1] Not available in final form.

Source: Association of American Railroads.

I was also asked to provide a percentage figure for "full train" (40 car or more) grain shipments. The Department of Agriculture informs me that when moving by rail all shippers attempt to move in trainload lots to obtain lower rates and that most all moves are in solid trainloads to the ports regardless of the shipper. No specific percentages are available however.

The questions raised on legal aspects of emergency powers will be answered by separate legal memorandum. If any further information is desired I will, of course, be happy to provide it for you.

In response to a question by Representative Moss, information on Department of Transportation Research contracts which will assist in measuring strike impact was requested to be furnished for the record at page 109 of the transcript. The enclosed table (attachment A) provides that information.

Sincerely,

ALAN S. BOYD,
Secretary.

ATTACHMENT A

Studies relating to the measurement of strike impact

Date of contract	Contractor	Study and scope
July 1966	Harvard economic research project.	Feasibility of established input-output analysis for transportation sectors. Completed in March 1967. Suggests interconnection of transportation modes with other sectors of the economy. Further work will be contracted shortly to develop the data for input-output analysis.
Mar. 1, 1967	EBS management consultants	Phase I, suggests strike impact measurement methodology and proposes a design for testing this methodology.
	Not chosen	Operational methodology simulation and test of methodology suggested in phase I of strike impact study.

(The following correspondence, regarding administration of emergency transportation functions and Presidential authority for seizure, was submitted by Chairman Staggers:)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., May 10, 1967.

Hon. ALAN S. BOYD,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: It seems to me that the record this morning is somewhat unclear insofar as it relates to certain answers that were given to questions from Mr. Brock Adams having to do with your responsibilities as the Administrator of the Office of Defense Transportation. It is my recollection that the title of this office has changed from time to time since it was first created back in World War II, and the administration of the office also has changed from the Interstate Commerce Commission to the Office of the Under Secretary of Commerce for Transportation; but I believe that just before the creation of the Department of Transportation, there was an Office of Emergency Transportation within the Department of Commerce, which was under your aegis when you were Under Secretary of Commerce for Transportation. It had been my impression that this was a function which was transferred to you as Secretary of Transportation.

The United States Organization Manual for 1966–67 states that the activities of this office are as follows:

"This office develops and coordinates overall policies, plans, and procedures for the provision of centralized control of all modes of transportation in an emergency for the movement of passenger and freight traffic of all types and the determination of the proper apportionment and allocation of the total civil transportation capacity or any portion thereof to meet overall essential needs. Within this overall coordinating function is a special operational planning responsibility for utilizing the civil air carrier capacity, both domestically and internationally, in a national emergency."

From this quotation and on the assumption that this is a function which is now yours, it would be my assumption that you are in charge of developing procedures for the control of all modes of transportation in an emergency for the movement of passenger and freight traffic and the determination of the allocation of transportation capacity or any portion to meet the nation's essential needs. I should welcome being informed as to whether you have responsibility in this area.

In addition, I would think it appropriate for you to indicate whether among the other authorities transferred to the Secretary of Transportation there is one in which you act on behalf of the President or participate in recommending to the President the certification required under sections 1(15) and 6(8) of the Interstate Commerce Act that in time of war or threatened war it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and that the railroads and the Interstate Commerce Commission comply with such preference or priority.

Sincerely yours,

HARLEY O. STAGGERS, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., May 18, 1967.

Hon. ALAN S. BOYD,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for sending me a copy of your letter dated May 17 to Senator Yarborough including a memorandum setting forth a series of answers to questions propounded by members of the Labor Subcommittee. I note that your answers are a result of substantial interagency discussion within the Federal government.

Without commenting upon these answers or the conclusion reached by you as a result of your interagency discussions that it would not be practical, feasible,

or economic to maintain partial operations of the railroads to carry the commodities essential to the national defense and the public health. I do wish that you would indicate to me just what you had in mind in your answer to question 4 when you stated that it appears likely that such partial operation would require legislation by the Congress for implementation.

Is it your thought in this connection that existing authority under the Interstate Commerce Act with the President in times of war or threatened war to establish priorities of movement of traffic is inadequate?

As you know, I just recently have written you in connection with the authorities that you do have or may have as a result of delegation from the President in this area of traffic priorities.

Sincerely yours,

HARLEY O. STAGGERS, *Chairman.*

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 26, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letters of May 10 and May 18, 1967, and for the opportunity to provide additional information with respect to the emergency transportation functions now lodged in the Department of Transportation. My testimony was, of course, directed toward those functions which would be relevant in the event of a nationwide railroad work stoppage, and not specifically to those which are designed to meet emergencies of other sorts.

You are entirely correct that the Office of Emergency Transportation (OET) has been transferred to this Department from the Department of Commerce. In the past, its responsibilities under Executive Order 10999 (February 16, 1962) have generally been construed to relate primarily to national defense emergencies arising out of enemy actions against this country proper rather than to emergencies arising out of a major disaster or strike. It should be noted that planning with respect to emergencies of the former sort is not readily applicable to emergencies such as a rail strike, in part because of the greater legal authority which could be made available in the former case, and in part because of the obvious factual differences.

In establishing the Department of Transportation the Congress has charged the Secretary with responsibility "to exercise leadership under the direction of the President in transportation matters, including those affecting the national defense *and those involving national or regional emergencies . . .*" (emphasis added). We have already initiated discussions within the Executive Branch looking toward developing orderly programs to carry out this portion of our responsibility.

In response to your inquiry concerning the Interstate Commerce Act, no specific authority has been transferred to the Secretary of Transportation to act in behalf of the President under Sections 1(15) and 6(8) of that Act to obtain preferences for defense traffic carried by rail. It should be noted, however, that both of these sections of the Act relate only to service by rail and would be effective in the event of a rail shutdown only with respect to whatever rail facilities remained in operation. "Partial" operation of railroads (dependent upon voluntary agreement of the carriers and the unions) to move "essential" goods is not feasible without additional legislation, in my opinion, since there is no authority under such a scheme to require shipment of materials which one or the other of the parties may regard as not essential and hence not within the scope of the agreement. Sections 1(15) and 6(8) of the Interstate Commerce Act do not provide authority to resolve disputes as to the scope of a voluntary agreement, nor to prevent either party from ceasing operations rather than carry materials which it does not regard as covered by the agreement.

I enclose, further to clarify the record, a memorandum (attachment A) from General Counsel on the Executive Branch's existing emergency transportation authorities.

I trust that this is fully responsive to your inquiry but, if I can be of further assistance, please do not hesitate to call on me.

Sincerely,

ALAN S. BOYD,
Secretary.

ATTACHMENT A

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
May 18, 1967.

Subject: Emergency authority over transportation.
From: General Counsel.
To: The Secretary.

INTRODUCTION

You have requested an outline of the authority available to the Executive Branch in the event of a major shutdown in the rail industry.

We conclude that the President is not authorized to seize and operate the railroads or other transportation facilities under present circumstances. He is authorized, however, to assign priorities in the movement of traffic over those transportation facilities which remain in operation when he deems it necessary or appropriate to do so to promote the national defense. In addition, the Interstate Commerce Commission and the Civil Aeronautics Board may grant temporary authority to operating carriers under their jurisdiction to carry traffic for limited periods of time in areas in which regular service is insufficient.

DISCUSSION

Seizure

A. *Inherent President Authority.*—In 1952 President Truman seized most of the Nation's steel mills to avert a work stoppage which would, in his view, have "immediately jeopardize[d] and imperil[led] our national defense" and endangered the military forces then engaged in Korea. Executive Order 10340 (1952). Since there was no statutory authorization for the seizure, the President relied upon his Constitutional powers as Chief Executive and as Commander-in-Chief. The Supreme Court held the seizure unconstitutional. *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579 (1952). Mr. Justice Black's opinion for the Court concluded that the President had no inherent constitutional seizure authority outside the geographical area in which U.S. forces were engaged in combat. There is nothing in the opinion to suggest that the President has greater constitutional authority with respect to the transportation industry than with respect to the steel industry.

In addition, Mr. Justice Frankfurter, concurring, noted that Congress had, in the Taft-Hartley Act, reserved to itself the power to fashion a remedy in the case of a particular dispute which was not resolved by the statutory procedures:

"By the Labor-Management Relations Act of 1947 Congress said to the President, 'You may not seize. Please report to us and ask for seizure power if you think it is needed in a specific situation.' This of course calls for a report on the unsuccessful efforts to reach a voluntary settlement, as a basis for discharge by Congress of its responsibility—which it has unequivocally reserved—to fashion further remedies than it provided." 343 U.S. at 603.

Mr. Justice Burton, Mr. Justice Clark and Mr. Justice Jackson expressed similar views in their concurring opinions. See, e.g., 343 U.S. at 639 (note 8), 657, 660, 663–4.

In the case of the Railway Labor Act, Congress appears to have similarly reserved to itself the power to provide remedies when the statutory procedures fail to resolve a dispute. In recommending enactment of the Railway Labor Act in 1926, the Senate Committee on Interstate Commerce declared that if the statutory procedures should fail to work

"so as to avoid any impairment of the public interest [in "adequate and uninterrupted transportation"] . . . Congress will be unembarrassed in adopting any means it sees fit to protect the public interest." S. Rep. No. 222, 69th Cong., 1st Sess. (1926) at p. 6.

Accordingly, the rationale of the concurring Justices in the Steel Seizure Case seems equally applicable to seizure of the railroads.

B. *Statutory Authority.*—The one statute currently in force which expressly authorizes seizure of the railroads is 10 U.S.C. § 4742 (1958), codified from the Act of August 29, 1916, 39 Stat. 619, 645 (1916), in which Congress has authorized the President "in time of war" to seize "any system . . . of transportation." The President has relied upon this law to seize major portions of the railroad

industry on five occasions,[1] each occurring during a time of war declared by the Congress.

In addition, there have been three seizures of single railroads in connection with labor disputes, each occurring during a time of war declared by Congress (Executive Order 9108, 7 F.R. 2201 (1942); Executive Order 9602, 10 F.R. 10957 (1945); Executive Order 10141, 15 F.R. 4363 (1950).

The United States is not now in a state of war declared by the Congress. The state of war with Germany terminated on October 19, 1951. P.L. 82–181, H.J. Res. 289, 82d Cong., 1st Sess. (1951). On March 20, 1952, the Senate ratified the peace treaty with Japan, and the state of war with Japan was terminated by Presidential Proclamation on April 28, 1952. Proclamation No. 2974, 17 F.R. 3813 (1952).

Upon the termination of the war with Japan, the last Congressionally-declared war, Congress had occasion to consider whether to declare that the various statutes which confer powers on the President "in time of war" would remain available for application in the post-war period. It should be noted that United States troops were at that time engaged in combat in Korea. The President's power under the Act of August 29, 1916, to seize transportation facilities received particular Congressional attention because the railroad seizure of August 27, 1950, under authority of the 1916 Act, was still in effect at the time of the termination of war with Japan and continued in effect until May 23, 1952. The Administration proposal expressly provided for the continuation of the President's powers under the 1916 Act. H.R. Doc. No. 368, 82d Congress, 2d Sess. (1952) at p. 7.

However, although the Congress continued in force certain of the President's statutory wartime powers, it declined to continue the seizure power under the 1916 Act. Emergency Powers Continuation Act of 1952, 66 Stat. 330 (1952). Noting that the Administration's assumption in seeking the Continuation Act was that "the military action in Korea does not constitute a state of war within the meaning of the statutes conferring authority in time of war", the House Committee on the Judiciary concluded that—

"Congress should be cautious and slow in extending this tremendous grant of power [to seize transportation facilities] in the Executive to a period where there is no state of actual declared war." H.R. Rep. No. 2041, 82nd Cong., 2d Sess. (1952) at pp. 3, 4; see also p. 22.

In the light of this legislative history, we conclude that Congress did not contemplate the use of 10 U.S.C. § 4720 under such circumstances as those now prevailing.[2]

Direction and coordination of operating transportation facilities

The President is authorized by the Defense Production Act of 1950, 64 Stat. 799 (1950), 50 U.S.C. Appendix Sec. 2071, as amended, to require acceptance and performance of contracts or orders and to allocate materials and facilities and assign priorities as he deems "necessary or appropriate to promote the national defense." Pursuant to this statute, the President or his delegatee is empowered to direct and coordinate transportation activities for the statutory purposes. This authority has been delegated to the Director of the Office of Emergency Planning, see Exec. Order 10480, 18 F.R. 4939 (1953), as amended, and redelegated to the Interstate Commerce Commission and the Department of Commerce, see 28 F.R. 12164 (1963). To exercise the authority under this statute, it is not necessary either for the Congress to declare war or for the President to declare a national emergency.

However, nothing in the Defense Production Act empowers the President either to seize the railroads or to prevent railroad workers from striking. As originally passed, the Act added only a provision for "voluntary conferences" at the behest of the President to the labor dispute procedures of the Taft-Hartley and Railway Labor Acts. Defense Production Act, Title V, 64 Stat. 812 (1950),

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[1] See: Presidential Proclamation, 40 Stat. 1733 (1917), Executive Order 9412, 8 F.R. 17395 (1943). Executive Order 9727, 11 F.R. 5461 (1946). Executive Order 9957, 13 F.R. 2503 (1948). Executive Order 10155, 15 F.R. 5785 (1950).

[2] See also President Kennedy's Special Message of July 22, 1963, on the Railroad Rules Dispute, H.R. Doc. No. 142, 88th Cong., 1st Sess. (1963); *Brotherhood of R.R. Trainmen v. Akron & Barberton Belt R.R. Co.*, — F. 2d — (D.C. Cir. May 12, 1967) ("[In July, 1963] a strike was immiment. . . . No outstanding techniques [for resolving the dispute] remained. . . . Only Congress could avert a national catastrophe, and it was to Congress that President Kennedy turned. . . ." Slip Opinion, p. 9).

50 U.S.C. Appendix Secs. 2121–2123 (1951 ed.). See also *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 603–609 (Frankfurter, J., concurring) (1952). Even the President's authority to initiate voluntary conferences under the Act expired on April 30, 1953. 66 Stat. 306 (1952), 50 U.S.C. Appendix Sec. 2166.

In addition to the powers of the President, certain administrative agencies having jurisdiction over transportation facilities are authorized to respond to abnormal traffic conditions. Thus, the Interstate Commerce Commission may permit motor and water carriers over whom it has jurisdiction to provide temporary service (limited to 180 days) to areas which such carriers are not normally certified to serve when existing service to these areas is inadequate.[3] 49 U.S.C. secs. 310(a), 911. Similarly, the Civil Aeronautics Board may exempt carriers from route limitations (49 U.S.C. sec. 1386) and may authorize supplemental service for periods up to 90 days over routes where the regular service is temporarily insufficient (49 U.S.C. sec. 1387). We do not address in this legal memorandum the extent to which use of these authorities could mitigate the consequences of a nationwide shutdown of rail service.

JOHN E. ROBSON,
General Counsel.

(Whereupon, at 12:20 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 11, 1967.)

[3] Under 49 U.S.C. secs. 1(15) and 1(16), the Interstate Commerce Commission is also given broad authority to direct *rail* traffic under emergency conditions (to the extent, of course, that railroads may be operating). The President is empowered, moreover, to obtain preferences for military traffic carried by rail. 49 U.S.C. secs. 1(15) and 6(8). See Act of June 30, 1963, 67 Stat. 115 and Act of July 31, 1953, 67 Stat. 244, continuing those powers in effect without requiring declaration of war.

RAILROAD LABOR DISPUTE

THURSDAY, MAY 11, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. FRIEDEL (presiding). The committee will come to order.

We will continue consideration of the legislation presently pending before the committee, House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Would you please identify the gentlemen with you, Mr. Secretary?

FURTHER STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR; ACCOMPANIED BY JUDGE CHARLES FAHY, CHAIRMAN, SPECIAL MEDIATION PANEL; AND FRANCIS A. O'NEILL, JR., CHAIRMAN, NATIONAL MEDIATION BOARD

Secretary WIRTZ. Yes, Mr. Chairman.

Judge Fahy is with me again today, and Frank O'Neill, the Chairman of the National Mediation Board.

Mr. Ginsburg and Mr. Reynolds, who were here on Tuesday, cannot be here this morning because of conflicting commitments but will, of course, be glad to be available if there are questions that any member of the committee wishes to address to them.

Mr. FRIEDEL. Mr. Rooney, have you any questions?

Mr. ROONEY. No, Mr. Chairman.

Mr. FRIEDEL. Dr. Carter?

Mr. CARTER. Mr. Wirtz, under what provision of the law were the railroads taken over in 1950?

Secretary WIRTZ. In 1950?

Mr. CARTER. Yes.

Secretary WIRTZ. I cannot identify the act technically. My information, subject to correction, is that it was an act of 1916. I will have to add to the record the technical identification of the law passed in 1916 (10 U.S.C. 4742 and 9742).

Mr. CARTER. Does the same law exist today?

Secretary WIRTZ. Subject to amendments in the meantime which amendments control and are very relevant to this matter, I think that law is still in effect today.

Mr. CARTER. Under the authority of this act, then, could the President not take over the railroads today as he did in 1950?

Secretary WIRTZ. Subject to correction, which I will make if I find it to be the fact, the answer is, "No," he could not, by virtue of the amendment of that act in 1953 which specifically withdrew this authority.

Mr. CARTER. That was not made clear yesterday. In fact, the testimony was quite different on that.

Secretary WIRTZ. I testify from my understanding at the moment. I do want to make it clear that I understand that question arose. I have not had time to make a complete check on it, but I testify to the following, subject to correction.

I am relatively confident that there was the amendment to the act in 1953 which would preclude that result. Subject to the advice of the Attorney General, I will take the position that the present situation is one in which there is no arguable authority to seize.

Mr. CARTER. Then the administration has no means whatever of taking over the railroads at the present time, as it did in 1950?

Secretary WIRTZ. That would be my position.

Mr. CARTER. Thank you, sir.

The CHAIRMAN. Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Wirtz, yesterday the Secretary of Transportation was here and he indicated that he had been in contact with many people, apparently, about the result to the union offer made to the Secretary of Defense and acknowledged by the Secretary of Defense to carry all shipments necessary to our Nation's military effort and the public health.

I am interested in what response the mediators or the people on this side of the fence from the brotherhoods, by way of speaking, have made to this offer by the brotherhoods and by the workers.

I think it of vital importance. They have stated that they won't interrupt the war effort. They have stated that they will see that the national safety and health are protected. It seems to me a very reasonable statement on their part.

I was very surprised that yesterday the Secretary of Transportation could offer no light on what had happened as a result of this offer. I am wondering if you can tell us.

Secretary WIRTZ. There has been no representation to the parties by the mediators with respect to this matter. The position that the Secretary of Transportation took yesterday with respect to this matter is one which I would have no reason to change in any way. But if your question is whether——

Mr. MACDONALD. Sir, he didn't take any position about it, frankly.

Secretary WIRTZ. Then I am perhaps under a misunderstanding. I understood his advice to be apparently categorical that the situation would not, in his judgment, permit the satisfaction of the public's needs by the representation which had been made by the unions.

Mr. MACDONALD. He merely indicated, as I recall—and, of course, the record will reflect what he said—that it would be very difficult to determine what things should be moved. We all agree with that. It perhaps would be difficult.

But that isn't my question. I am not saying whether it would be difficult or not. I think it probably would be. But certainly no more difficult than having the Government tell people that they don't

possess a right that they have traditionally always had; namely, the right to work or the right not to work for cause.

I am asking you what, if anything, have the mediators done in response to this offer by the unions?

Secretary WIRTZ. The mediators have done nothing in response to the offer.

Mr. MACDONALD. Has anybody on the Government side done anything?

Secretary WIRTZ. It is not only my understanding, but I do testify, that there has been consideration of the matter as reflected in the testimony of the Secretary of Transportation. After consultation, it is my understanding, and it is the position of the Secretary of Transportation, that the arrangement proposed would not satisfy the public interest.

Mr. MACDONALD. As far as I can tell—and that message was sent to the Secretary of Defense on the 28th of April, and then it was followed up by a response by a Mr. Caputo, whom I don't know, but whom you may know——

Secretary WIRTZ. No, I don't.

Mr. MACDONALD (continuing). And it was addressed to Secretary McNamara—and it was followed up on the 10th of May by another letter from the brotherhoods and the workers.

They suggested that a panel be set up immediately, of interested people on both sides, responsible railroad people, responsible union people, and they even suggested perhaps since the onus or at least the administration has come to us—perhaps somebody from the Senate side and the House side also be represented as representing the legislative branch.

It seems to us if, indeed, there is an attempt to mediate this strike, that this is a reasonable offer and should be followed up. I don't truly understand why it hasn't been followed up.

Secretary WIRTZ. I thought when you referred to mediators you were referring to those of us who have been working with the terms and conditions of employment that are involved in the dispute here.

Mr. MACDONALD. Actually, I am talking about everybody in the Government who is interested in getting this national emergency, which it has been called, settled. It seems to me if one side says, "We ought to set up a panel and try to resolve this thing so there won't be a national emergency," that it is beholden on those people who have the authority to negotiate in the name of the Government to follow it up.

Just to have it sit there blank in the record as an offer made by the brotherhoods, the workers, and to have no response except an acknowledgment that, "Yes, this offer had been made," seems to me—and I am not being critical of you, obviously, because you have my deep sympathy; you have a very tough job and I know you do, and I know you are a very able person—it seems to me that somebody, and I don't know who—it wasn't the Secretary of Defense, certainly, because he didn't even answer this thing; it wasn't the Secretary of Transportation; and now you say it wasn't the people who are dealing as you are, as a mediator—I am suggesting that somebody should follow this up.

I ask your opinion. Don't you think that is a reasonable approach?

Secretary WIRTZ. Yes, I think the only question is about it not being followed up. The suggestion that it has not been given full consideration would be a dubious basis in my mind. I think you have had pretty direct representation from the Secretary of Transportation and from the Secretary of Defense that in their judgment this situation is not one which lends itself to that approach.

If the question is as to whether they responsibly arrived at that conclusion without further consideration with the parties, you would understand by deferring to their judgment on that, or at least to their responsibility on that.

I would think it a mistake for the Secretary of Labor to get into the question of mediation with the parties on the question of what transportation can be adequately supplied under the circumstances, not because it is a matter of no interest—because it is a matter of very real interest—but when it comes to working out, in your suggestion, what can be done by way of something along lines of this kind, I would feel no real competence myself to do it.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Brotzman?

Mr. BROTZMAN. Thank you, Mr. Chairman.

Relating to House Joint Resolution 559, Mr. Secretary, it is my understanding from reading this bill and from the testimony that has been adduced thus far before the committee, that this contemplates the continuation of the collective bargaining process, under the aegis of this so-called "Special Board" that is to be appointed.

Will this special board be taking testimony, mediating, or what will their function be as you envision it?

Secretary WIRTZ. The contemplation would be that they would be mediating at all times through the 90-day period. They would, if the mediation had not proved successful on the 30th day, hold a hearing. The resolution does not specify——

Mr. BROTZMAN. And the purpose at the end of the 30 days would be what?

Secretary WIRTZ. The purpose would be this: As suggested by the resolution, they would take as the starting point for their consideration the mediation proposal of April 21, and they would inquire of the parties and receive testimony from the parties as to what their position is.

In practical terms, I take it that at that hearing they would say, "We want to know plainly the lines," whether in public or private being up to them, "what is the matter with this proposal that seems to so many people so unreasonable."

I guess you could call it in legal language kind of show-cause proceeding. "Why don't you put it into effect? It seems reasonable to a lot of other people. What is wrong with it?"

In technical terms, I would call that an extremely forceful mediation device which would include among other things, an attempt to attach as much public attention to that as possible.

If, after another 30 days, there is still no settlement, that determination would be filed with the mediators, it would be filed with the President and with the Congress, for no purpose except to make it a matter of clear public notice and attention.

So there would be hearings, there would be hearing tied very closely to the mediation function and designed to implement that function by bringing whatever value ventilation has to the matter.

Mr. BROTZMAN. So it is a progressive adding of, shall we say, public attention, incentive and pressure to try to bring the parties to voluntarily agree upon something.

Secretary WIRTZ. That is correct.

Mr. BROTZMAN. This really leads up to my question. I wasn't clear, Mr. Secretary, the other day as to what you answer was relative to the present situation between the parties. If I understand your answer correctly to a question, there is no communication or no attempt being made to presently bargain on these respective points at the present time.

Is that a fair statement?

Secretary WIRTZ. Just very briefly, there was, on April 25, a meeting across the table between the two parties. That was on the question stimulated by the Senate committee's resolution, the question of whether they could find in that April 21 proposal an answer to their problems.

That meeting continued about an hour and was terminated with both of them keeping their previous position, which were rejections of that settlement.

On the weekend of April 29, 30, and May 1, there was a strong mediation attempt on the part of some of us who have been working with this case to see if we could find another answer which would have been somewhat different. That was intensive over the weekend. It did not involve the parties meeting across the table. It did not involve a formal change in either party's position.

It involved a strong mediation effort to see if there was another answer. That ended in frustration, completely.

There has since that time been an active keeping in touch with both parties and with the situation.

Mr. BROTZMAN. Keeping in touch by the mediators?

Secretary WIRTZ. By the mediators. There has been, so far as I know, no communication between the parties during that period. There has been mediation contact with both of them and there will continue to be. There is presently nothing working that would seem to be relevant to the disposition of this matter.

Mr. BROTZMAN. I was hoping we might have a courthouse step settle here. We are asked to do something that I am not sure anyone really likes so far as precedent is concerned.

It would seem to me that the incentives ought to be quite evident in this particular case. I am trying to find out if a settlement might be in the offing or if it looked even possible that such might occur even before the Congress is called upon to take definitive action.

Secretary WIRTZ. I would surely share that hope. I have no basis at this point for contributing to that expectation.

Mr. BROTZMAN. I thank you.

The CHAIRMAN. Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Secretary, I want to express my appreciation to you personally and to your staff for the cooperation and the help that you have given to members of this committee as we have gone along.

I want to confine my remarks particularly now, Mr. Secretary, to the national emergency strike as opposed to other types of collective bargaining. I would ask you first:

Is there not a considerable body of thought among labor experts that there should be, in national emergency strikes, an open-ended system with Congress sitting as the final arbiter?

Secretary WIRTZ. If I understand the question, Mr. Adams, I don't find much support for the idea——

Mr. ADAMS. I don't mean support for it. But there is a theory in labor law that says you should leave Congress as the uncertain, final forum to solve the strike when nobody else can. There is such a body of thought, is there not?

Secretary WIRTZ. I don't believe there is. But there it may be my own prejudice against it.

Mr. ADAMS. I think that is a fair statement. I haven't asked you whether or not you favor it.

Secretary WIRTZ. Just very briefly, the closest I come to hearing that is the feeling that there has been little enough of it, that it would be better to do that than to adopt a general rule.

Mr. ADAMS. What we are in effect doing with the Railway Labor Act, and we have done it twice in the last year, and prior to that had done it in the middle 1960's, is by a series of ad hoc congressional decisions settling the matter between the parties so there will not be a strike. Is that correct?

Secretary WIRTZ. Congress has done that?

Mr. ADAMS. Yes.

Secretary WIRTZ. I wouldn't say so. I would say that in the last 4 years, matters of this kind have come to the attention of the Congress, two at the introduction of the administration and the other one with some uncertainty on it. There have been those three. There was not a settlement in the first one. There had to be legislation. There was a settlement in the airlines case.

Mr. ADAMS. After considerable congressional hearing and pressure?

Secretary WIRTZ. This is true.

Mr. ADAMS. And we are here today. In each one of these, Mr. Secretary, we establish, in effect, by an ad hoc settlement, in fact, a position of Congress as to how we will handle these. In the past, in 1946 for example, and in 1950, seizure was used.

More recently we have used, in 1963, in effect, a compulsory arbitration or a statement—we won't use that word—a statement of, "This is what you shall do."

Resolution 559, in effect, says, "If you don't agree, we will tell you for a substantial period of time what the terms will be." Is that correct?

Secretary WIRTZ. Yes, sir.

Mr. ADAMS. Is it not correct that it is the position of management, between these two parties, that they favor having the parties told, by compulsory arbitration, what the result will be?

Secretary WIRTZ. My impression is that in the transportation industry there is a substantial body of management opinion in support of legislation of that kind.

It is also my impression that that is a divided opinion. I think it is probably a majority opinion, but I am not sure.

Mr. ADAMS. Mr. Chairman, I would ask unanimous consent that there be entered into the record two letters that were sent to me, one dated April 27, 1967, and one dated May 2, 1967, from the National Railway Labor Conference, signed in both cases by Mr. J. E. Wolfe.

I would ask that in this case the Secretary be allowed to refer to the letter of April 27.

The CHAIRMAN. This has not appeared yet before the committee?

Mr. ADAMS. That is correct. I want the Secretary to refer to the statement.

(The letters referred to follow:)

NATIONAL RAILWAY LABOR CONFERENCE,
Chicago, Ill., April 27, 1967.

Hon. BROCK ADAMS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: For what assistance it may be to you in deciding the steps Congress should consider to stop a disastrous railroad strike, I am enclosing a brief memorandum which expresses some of the thoughts of the railroad industry on the problem. I hope it will merit your careful consideration.

If there are any questions on the matter which I can answer, I hope you will get in touch with me at the Statler Hotel here in Washington.

Respectfully yours,

J. E. WOLFE, *Chairman.*

APRIL 27, 1967.

FATEFUL CHOICE: GOVERNMENT SEIZURE OR IMPARTIAL ARBITRATION

As Congress faces the necessity of acting to forestall a shutdown of the nation's essential rail services by six shop workers unions, there are those who advocate legislation providing for government seizure of the railroads. This approach would merely postpone resolution of the controversy, not solve it—in contrast to the alternative of passing legislation providing for binding arbitration of the dispute.

When the nation was confronted by an imminent rail strike in 1963, the late President Kennedy asked Congress for special legislation to head off the walk-out in a July 22 "Special Message on the Railroad Rules Dispute." In this message, President Kennedy said that instead of setting up an arbitration board he preferred that the dispute be submitted to the Interstate Commerce Commission. However, after extensive hearings and detailed consideration of alternative solutions. Congress chose the remedy of requiring arbitration.

President Kennedy and the Congress rejected seizure of the railroads. In his "Special Message," President Kennedy said:

"Seizure of the railroads has been rejected as unjustified in the circumstances of this case, as creating complex legal and financial problems for the government, and as merely postponing the day of reckoning on more efficient work rules and their acceptance by the brotherhoods."

It was recognized that seizure does nothing to solve a labor dispute or settle the differences that lead to a strike threat. It is simply a device for "postponing the day of reckoning."

In the present shop unions case, seizure of the railroads would also serve to punish the innocent—the one party, the railroads, that has demonstrated by its record of accepting public board recommendations a sincere desire to settle the dispute.

The only way that seizure could dispose of a labor dispute, assuming the unions persisted in asserting unrealistic demands, would be for the government in its role as operator of the railroads to impose on the employers terms that the unions would accept—terms that would have to exceed what Presidentially appointed boards have found to be merited by the facts.

This is not only unfair to employers and owners *but to the public which must finally pay the bill for any unrealistic settlements forced by political expediency.* And if the government during seizure does press management for greater concessions to the unions, will not labor be encouraged to bargain less and to resort

more and more to the tactic of forcicng seizure in major disputes? Certainly at the very least the functions of Presidents' Emergency Board provided for by the present law would become merely futile exercises. The unions would be *rewarded* for rejecting their recommendations.

Even when labor unions advocate government seizure, there is evidence of serious reservations on the part of responsible union leaders. For example, the April 18 issue of the Daily Labor Report of Bureau of National Affairs stated:

"C. L. Dennis, president of the Railway Clerks, AFL–CIO's largest transportation union, says at a press briefing in Washington that compulsory settlement of nationwide contract disputes may not be far down the road. The immediate prospects, according to Dennis, is for 'a one shot law' to settle the current dispute between the railroads and the six shopcraft unions."

The shop unions themselves have suggested that if the parties cannot agree, arbitration is the way to provide an ultimate solution, as follows:

"In their efforts to reach agreement on the ultimate goal of such a wage rationalization, the parties can invoke the good offices of the Department of Labor and other Federal agencies to furnish occupational and labor market information needed in their determination of occupational and job comparability. If in the final analysis they cannot agree on the ultimate degree of comparability, they should then have recourse to arbitration of the unresolved issues." (Page 35, Shop Union Brief filed with Emergency Board 169, February 1967.)

Arbitration assures a prompt disposition (instead of postponement) of the dispute—a disposition that is not dictated by unreasonable demands of one side or the other, but is responsive to the merits of the case. A party seeking justice need not fear an impartial adjudication where all other avenues of settlement have failed.

Certainly arbitration—a prompt and fair decision—is far preferable to seizure, which postpones the day of reckoning and opens Pandora's Box of unmeasurable consequences for the whole nation.

[From the Washington Post, Apr. 28, 1967]

ARBITRATION IS THE FAIR WAY TO PROTECT THE PUBLIC FROM A PARALYZING RAILROAD STRIKE

The fair—the only—way to save this nation from a paralyzing railroad strike in the next few days is for Congress to require both the unions and the railroads to submit the dispute to binding arbitration.

Unless Congress acts to prevent it, a group of shopcraft unions led by the International Association of Machinists, will bring the nation's rail transportation system to a grinding halt at 12:01 a.m., on May 3. The International Association of Machinists is the same union that shut down a large segment of the nation's airlines for more than 40 days last summer.

The railroads have consistently said they are willing to leave the decision in this dispute to an impartial third party. But the unions have steadfastly refused.

Why?

The railroads believe anyone seeking justice need not fear an impartial decision by a third party when all other avenues of settlement have failed.

The public overwhelmingly favors arbitration over a rail strike. A recent national poll of public opinion (February) showed the public almost 2 to 1 in favor of arbitration over a strike in transportation (57% for, 29% against 14% no opinion).

Unlike government seizure of the railroads which may keep the railroads operating but really does nothing to settle the issues, arbitration does clear up the issues, bring final settlement and protect the public interest.

In view of the basic fairness of an impartial third party decision when two sides fail to agree; in view of the public support for the principle of arbitration in transportation, and in view of the disastrous consequences of a nation-wide rail strike, Congress can serve the public interest best by promptly enacting legislation requiring an arbitrated settlement of the issues in this dispute.

NATIONAL RAILWAY LABOR CONFERENCE,
Chicago, Ill., May 2, 1967.

Hon. BROCK ADAMS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: In the hope that it may be of some help to you in determining the best course of action to take in the railroad labor crisis, I am enclosing some evidence of widespread sentiment for arbitration.

On the attached sheet (attachment A) are some typical editorial comments we have received in the last few days showing that an influential segment of the nation's responsible press supports arbitration as the practical way to solve these continuing crises.

In addition to the nation's press there are many, many other influential groups who favor arbitration. Among them is the Transportation Association of America who, in a public statement relating to the railroad dispute, stated on April 27, 1967:

"The fairest—and only final solution—is for Congress to meet its public responsibilities and to legislate binding arbitration promptly."

The Chamber of Commerce of the United States in a special bulletin of May 1, 1967, reiterated its position in the following words:

"Arbitration should, as a general rule, be wholly voluntary and should only be used as an adjunct to free collective bargaining. Where fact-finding boards are prescribed by law, and where the recommendations or awards of such boards have in practical effect become binding on one party to the dispute, the recommendations should be made legally binding on both parties to the dispute or the use of fact-finding boards should be discontinued."

The General Federation of Women's Clubs, representing 13 million women, acting under the authority of a resolution unanimously adopted at their national convention on June 9, 1966, just recently issued a public statement on this same subject. Under date of April 14, 1967, Mrs. E. D. Pearce, President of the General Federation, said:

"I lend the voice of the General Federation of Women's Clubs in support of steps necessary to effect permanent machinery for binding adjudication of railroad labor disputes on a fair and equitable basis while at the same time insuring uninterrupted service to the public."

In addition to the statements of these public groups, there is impressive evidence that the general public itself strongly favors arbitration in preference to a rail strike. I am attaching a page from a public opinion survey (attachment B) made last February by the Opinion Research Corporation of Princeton, N.J., showing a vote of 57% in favor and 29% opposed (14% no opinion).

In the interest of brevity, I have referred only to excerpts from these various reports and documents. Should you wish more information, I will be glad to furnish the entire document.

Respectfully yours,

J. E. WOLFE, *Chairman.*

ATTACHMENT A

EDITORIAL COMMENT ON THE NEED FOR ARBITRATION

Baltimore Sun (May 1, 1967): The present dispute over the wage increases sought by the shop craft unions may have to be settled by special arbitration legislation in the end, since there is a broad acceptance of the point that a railroad strike could not be tolerated. But members of Congress should feel called upon to consider whether something firmer and longer-lasting than special emergency laws is needed to prevent such recurring crises.

New York Times (April 29, 1967): Chances are strong that something not radically different from compulsory arbitration will have to be voted in the rail controversy unless the country is to witness another disgraceful resort to Government-fostered wage inflation of the kind that marked settlement of the strike of airlines mechanics last summer.

Chicago Daily News (April 28, 1967): When Congress imposed a settlement on the railroad firemen, the public was well served by the decision to jettison ludicrous union demands. The same concern for the public good should prevail now.

Washington Star (April 28, 1967): As we have pointed out in the past, laws compelling a settlement have successfully been used in several other countries including Australia, New Zealand, Germany and Sweden. It's time for Congress to get to work on such a basic new law.

Los Angeles Times (April 27, 1967): An ideal solution would be agreement by both sides to submit to binding arbitration if an impasse is reached. . . . Congress compelled arbitration in the threatened nationwide rail strike in 1963 when a work rules dispute resisted all mediation attempts. That action must again be taken if the rail shopcraft unions refuse to call off their strike.

N.Y. World Journal Tribune (April 13, 1967): Certainly there is a strong case to be made for (Congress) obviating strikes that motivate national calamities. . . . Does this add up to a case for systematic compulsory arbitration? It may, indeed, in the absence of workable alternatives.

St. Louis Globe Democrat (April 13, 1967): We badly need a law to bar national strikes which erode public interests and slug the public. Such a law should propose compulsory arbitration and a special court for management-labor issues.

St. Louis Post-Dispatch (April 12, 1967): Congress knew or should have known in 1963 that compulsory arbitration, permanent and covering all the railroad unions, was the only remaining recourse to bring reasoning into these disputes.

Cleveland Plain Dealer (April 12, 1967): The only way to end the almost continual labor contract crisis in the nation's transportation facilities covered by the Railway Labor Act appears to be to put teeth in the recommendation of presidential emergency boards . . . to make binding a board's findings could be the only answer.

Christian Science Monitor (April 10, 1967): We recommend that the possibility of including compulsory arbitration in any strike legislation be given serious consideration.

ATTACHMENT B

ORC CARAVAN SURVEYS, FEBRUARY 1967

"Here's a suggested plan to do away with strikes in transportation industries. Companies and unions would try to settle each labor dispute by bargaining. If they could not settle the dispute, the President of the United States would appoint an impartial arbitration board and whatever the board decided would be final and binding on both sides. Would you be for or against a compulsory arbitration law like this?"

	Total U.S. public
Number of interviews	2,023
For (percent)	57
Against (percent)	29
No opinion (percent)	14

Mr. ADAMS. Referring to the first paragraph, Mr. Secretary, and then referring to the first paragraph in the memorandum, would it be your statement that that gentleman, Mr. Wolfe, has indicated that compulsory arbitration is at least an acceptable position to the industry?

Secretary WIRTZ. Yes, I think that is right, although that would be subject to his own comment, of course.

Mr. ADAMS. Yes. I want to put this in context.

In 559, you have suggested that there be this freezing. I want to know what your position would be on requiring the parties in a 90-day period to have the management make a public offer, have it voted on by the unions, and, if rejected, a counter public offer sent back to management with either a public acceptance or rejection of it. Remember, we are talking about only national emergency strikes.

Secretary WIRTZ. I have just one question. That would be an offer which is submitted by a Government agency to the membership?

Mr. ADAMS. It would be the last offer of the parties, similar to what is done under Taft-Hartley, and submitted to the membership directly for vote.

Secretary WIRTZ. I have never thought about bypassing the union processes to get a membership vote.

Mr. ADAMS. And the counteroffer back?

Secretary WIRTZ. The vote thing I would be opposed to, and the formality of saying that there is to be a final offer—I neither oppose it nor approve it.

Mr. ADAMS. You will assume this has been done and you have the last stated positions of the two parties. What is your position with regard to, instead of 559, saying at the end of this period—

We will have the Board appointed. It will take the Fahy Panel recommendations and build upon them in the same fashion that Resolution 559 does. At the end of the period the public offers, the statement of the Board, would be made public, and the parties would have a period of 10 days within which to negotiate. At the end of that period, if they did not, then there would be sanctions applied that both dislike, which would be to continue your injunction, require the panel to set up the terms and conditions, and to seize.

Secretary WIRTZ. To seize the company or to seize the company and the union?

Mr. ADAMS. To seize the company and to impound profits during this period of time, freeze bonuses and to freeze, in effect, both parties.

Secretary WIRTZ. I would be opposed to that.

Mr. ADAMS. Why?

Secretary WIRTZ. Because I don't see equity in it and I don't see necessity in it.

Mr. ADAMS. I would say this to you: If one party is in favor of the proposal that is being made, and the other party has indicated its opposition to it, why do you think this type of proposal will make them both negotiate?

Secretary WIRTZ. I want to know which party is right. One may be right and the other may be wrong. Without making that assessment, to suggest equality lies in satisfying both of them goes beyond my understanding.

Mr. ADAMS. No; not satisfying both of them. Satisfying neither of them and applying pressure to both. You stated, and I agree with you, that House Joint Resolution 559 is requiring the littlest possible interference in the collective bargaining process.

What I am saying is that by applying the littlest possible interference with the process in a national emergency strike, we simply will not get both to continue any further bargaining. Why should they?

Secretary WIRTZ. The point is that I don't see the fairness in treating equally just one side that may be right and I don't know which side is right.

Mr. ADAMS. I haven't passed on the merits at all.

Secretary WIRTZ. That is the point. I don't see how we get equality by dealing equally, according to your statement, with two parties, one of whom may be reasonable and the other unreasonable.

Mr. ADAMS. All right. What I am saying is remember that this is in the context of each time we make one of these decisions we are setting up the next one to come before us.

What I am attempting to find from you is your position and that of the administration, if Congress, in effect, says to the parties, "If you cannot complete your bargaining and get an agreement when you come up here, it is going to be unpalatable to you. So bargain."

That is as apposed to the proposition you have here of saying to both parties, in effect, "We will set up or we will establish", which is really what the Government does, "your agreement for you."

Secretary WIRTZ. I still have the same feeling that the public does not reach a fair answer by simply saying, "We are going to do whatever is necessary to make both parties unhappy, without regard to which of them is reasonable and which of them is unreasonable." I just don't follow that.

Mr. ADAMS. I will limit the context even more narrowly to an industry, the transportation industry, where you have the Government regulating, you have the establishment of rates basically in Government control, you have no competitiveness—and this was testified to by the Secretary of Transportation—no real competitive alternative.

So we are moving this out of the context that original collective bargaining was based upon, which was that the parties would both be injured and that there would be a movement to a competitor and, therefore, they had to settle. I am limiting it now to this type of situation.

Do you not believe that with the public interest, and that is all we are talking about, involved, that in this type of industry we should do and go farther than we might in a nonregulated, nonmonopoly industry?

Secretary WIRTZ. Yes; I think that is entirely conceivable.

Mr. ADAMS. Taking it in this narrow area, would your answer still be the same as what I proposed to you?

Secretary WIRTZ. Yes, it would, and it would be the same if the question were am I in favor of broad, compulsory arbitration. It would be exactly the same. The view of neither party should control.

Mr. ADAMS. Since you seem to feel that in this case there may be something in the merits that makes a difference in this, suppose the Congress were to pass ad hoc legislation in this case and tack to it, in effect, a permanent type of legislation saying, in effect, to the parties in the future, "If you come back, this is what is going to happen." What would be your position on that?

Secretary WIRTZ. Come back to Congress?

Mr. ADAMS. In other words, you go through the whole process under section 10 as we do now and you can't agree.

Secretary WIRTZ. I would say if there should be a development along the line of permanent legislation, I would think the idea embodied in this resolution of tying whatever final determination is made completely to the path or course of collective bargaining that has been followed would be an advantage.

I have also said that I think this resolution is tied so completely and tailormade to this case that it could not be made a permanent matter.

But I do think that idea of a final keystone determination, drawn from the collective bargaining is worthy of consideration.

Mr. ADAMS. Mr. Secretary, it is true, is it not, that approximately 70 percent or a great portion of the railroad industry at the present time is under a type of compulsory arbitration in their grievance machinery?

Secretary WIRTZ. In the grievance machinery?

Mr. ADAMS. In the area of their labor negotiations, grievance machinery and so on, with the exception of these limited areas, it is under compulsory arbitration now?

Mr. O'NEILL. There is a vast distinction between negotiations and grievances. It is true that under section 3 of the act the parties must go to a tribunal to get interpretations of existing agreements. But when they come in for a change in an agreement, or a new agreement, there is nothing compulsory under the Railway Labor Act.

Secretary WIRTZ. The answer is, "Yes." It is not 70 percent. It is the whole of the industry.

Mr. ADAMS. I meant all of the industry. I am talking about the total number of labor-management disputes now. Basically, under the agreements, it is settled by compulsory arbitration.

Mr. O'NEILL. Grievances are handled by a tribunal. The Supreme Court has said that is the way they must be handled. But that is only after you have an agreement.

Secretary WIRTZ. Furthermore, almost 100 percent of industry, all of industry, has voluntary arbitration of grievances.

Mr. ADAMS. That is very different.

What you are proposing in Resolution 559 is that, in fact, by establishing this kind of a pattern, where the parties know when they start to bargain—I will ask you this, Mr. Secretary—is it not true that every time we establish a precedent here of this nature, it affects the bargaining process?

Secretary WIRTZ. Yes.

Mr. ADAMS. The parties know, then, that if they come here there will be a final result of "We will settle it."

Secretary WIRTZ. It does have an effect on the future. There is no question about that.

Mr. ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Secretary, I must apologize to you and the chairman for being a little tardy. I understand a question similar to the first question I would like to ask has already been asked. I beg your patience with it.

As I understood when you were here Tuesday, you said after June 19 the President has no power to resolve this dispute or to put off an impending strike.

Does he have such powers prior to June 19?

Secretary WIRTZ. Yes. There would be a prohibition by operation of the resolution on any strike up to June 19. That was the effect of the extension order, the second extension order, adopted by the Congress.

It would not be a power in the President. It would be an extension of section 10 of the Railway Labor Act, the extension of the status quo order.

Mr. BROWN. But nothing beyond that?

Secretary WIRTZ. That is correct.

Mr. BROWN. Can you describe the status of negotiations at the present? Are there any negotiations going on?

Secretary WIRTZ. No, there are not.

Mr. BROWN. How long has that been the case?

Secretary WIRTZ. The last meeting across the board was on April 25. On the weekend of April 29, 30, and May 1, there was a strong mediation effort by the mediators, which was not successful. There has been subsequent contact by the mediators with both parties which will, of course, continue. But there has been no further discussion between the parties.

Mr. BROWN. Is there any indication that any further discussion will be taken up in the near future or prior to June 19?

Secretary WIRTZ. There is no present indication of that. I do not mean by that to preclude that possibility, but there is nothing presently. There is nothing working at the moment.

Mr. BROWN. I have two questions a little off the track, Mr. Secretary. When the Secretary of the Department of Transportation was with us yesterday he testified to the fact that one of the problems in these negotiations is the compression in wages between the skilled and unskilled in this industry.

Isn't this compression also occurring in many other industries and to some extent hasn't this been an objective of some recent labor negotiations?

Secretary WIRTZ. It is a very widespread problem today. It results from the fact that over about a 20-year period most increases in wages were on a cents-per-hour basis rather than on a percentage basis, which narrowed over the years the gap which had previously existed between the high-wage people and the lower wage people.

This is a problem in a good many relationships today.

Mr. BROWN. And we find this apparently reversing, or at least some interest in reversing that procedure or that situation?

Secretary WIRTZ. That is correct.

Mr. BROWN. Is it fair to ask if this is also a Government objective, compression or reversal of compression?

Secretary WIRTZ. As far as Government rates are concerned?

Mr. BROWN. As far as the social objectives of the Federal Government.

Secretary WIRTZ. Yes, that is right.

Mr. BROWN. Yes, what?

Secretary WIRTZ. There is a recogntion of the desirability of reinstituting to some extent the previous difference between the lower rate and the higher rate people. That is recognized by all parties in this case. It has been accepted as a matter of principle from the Emergency Board report on, through the mediation proposal, and accepted by both sides, that this matter requires attention.

Mr. BROWN. Mr. Secretary, would you consider this legislation, if passed, 559, a precedent for similar action in the future, in the instant case of this strike, or a similar strike?

Secretary WIRTZ. I have said to Mr. Adams that I think it is unquestionably true that any action of this kind does influence the future to the extent of expectation of a similar approach.

Does that answer your question?

Mr. BROWN. Yes.

Secretary WIRTZ. I would like to add to that that I think there is a certain amount of discouragement that comes to the parties in going through what they have properly gone through in something of this kind that mitigates that a little bit.

Mr. BROWN. If this situation is carried to its extremity, if 559 is passed, and the procedures outlined in 559 are carried to their extremity, what will be the situation after January 1, 1969?

Secretary WIRTZ. It would be that the matter would be open as it would be at the end of any contract period under the Railway Labor Act.

Mr. BROWN. And is it possible that we would go through the same procedure again? Is it possible?

Secretary WIRTZ. It is possible, but you will understand my adding that it is no more possible than it is with respect to all of the other contracts that are opened at any time under the Railway Labor Act.

Mr. BROWN. But this does become a precedent for that possibility?

Secretary WIRTZ. You have gone further than my reactions would justify. I recognize that practically the fact is that whenever we take special action it has an effect upon the future.

To suggest that this now becomes a precedent for the next disagreement that arises between any parties in the railroad industry, with the suggestion that there is a likely reliance on that precedent, does not accord with my expectation.

I point out that in this last year, despite the 1963 action, we had what I think was the strongest, most vigorous private collective bargaining throughout most of the railroad industry that we have had in a long time, and it included the parties to the 1963 case.

They bargained out their differences themselves.

Mr. BROWN. May I ask an assumption now? Let us presume that the news came that the unions and management settled the railway strike right now.

Would you favor the presentation by the administration or the consideration by the Congress of permanent legislation to avoid going into this extremity in the future?

Secretary WIRTZ. I think in a sense it would renew the very active concern about and interest in developing whatever is the proper pattern for the future, as far as this emergency dispute matter is concerned.

I think it is true that in a very real sense the arising of this crisis has made it difficult to consider that other matter.

Mr. BROWN. At this time?

Secretary WIRTZ. That is correct.

Mr. BROWN. May I ask one other area of questions?

If this involvement were not nationwide, would the competitive pressures on both the union and the various segments of the industry be such that a less than nationwide strike might be settled with more ease than a nationwide strike?

Secretary WIRTZ. Yes, I suppose so. I will answer very briefly because the question of the desirability of nationwide handling of these cases as distinguished from property by property handling is a

very real difference between the parties at this time, which I should not want to prejudge.

But it is quite true that the development by the parties, with some variety of position about it, of nationwide bargaining here, does contribute to matters of this kind.

Mr. BROWN. Would it be within the province——

Mr. FRIEDEL (presiding). The time of the gentleman has expired.

Mr. BROWN. May I finish my question, Mr. Chairman?

Mr. FRIEDEL. Yes.

Mr. BROWN. Would it be within the province of the Congress to give consideration to legislation which might outlaw industrywide bargaining in such industries as adversely affect the national interest when we get to that strike threat situation?

Secretary WIRTZ. I want to be sure, when you say would it be within the province of the Congress to consider that, do you raise a question as to authority or as to wisdom?

Mr. BROWN. If you would like to answer on both issues, I would be pleased to have you do so.

Secretary WIRTZ. On authority, I would think there would be no question about it.

On wisdom, I think it would present a very important question. I would not commend any easy moving toward a prohibition of it.

Mr. BROWN. Do you consider the question of compulsory arbitration or seizure more important?

Secretary WIRTZ. You say more important.

Mr. BROWN. More fundamental?

Secretary WIRTZ. Yes, I think so.

Mr. BROWN. I gather that you would put that last on the list in a choice between compulsion and seizure and monopolistic bargaining?

Secretary WIRTZ. I would think a constructive approach to the question of sounder collective bergaining in this industry could very well start with consideration of the fact that as things now stand—with a nationwide approach to it—collective bargaining loses its typical motive power, which is the power of one side or the other to say no, and to hurt the other party before it hurts the public.

That is too long a statement. But a basic factor here is that now the exercise of economic force by either side has nationwide implications.

I think you come very close to the heart of the problem when you refer to that point.

Mr. BROWN. If I can just finish this question by asking it in this way, am I to assume that you are suggesting that nationwide bargaining in the rail industry is a given?

Secretary WIRTZ. I do not assume that it is a given. I am being too careful, but I mean to say to you that if there is consideration of what ought to be done by way of amendment of legislation, or by development of different private practices, I would start with the consideration of problems of the kind you have raised rather than with the problem of what kind of castor oil dosage—compulsory arbitration or seizure—and to try to get at the roots of the problem rather than at this ultimate sanction.

Mr. BROWN. In other words, you would prefer this consideration to compulsory arbitration or seizure?

Secretary WIRTZ. Yes, sir.

Mr. FRIEDEL. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman.

Mr. Secretary, do you feel that the trend in Federal intervention, and that is what it amounts to, in utilities such as the railroads is a trend toward both the regulation of the wage rate and the utility rate, too?

Secretary WIRTZ. We already have it on the utility rate side to a very considerable extent. I seem to have become oversensitive to the terminology, but I don't mean to be. We call it a trend. I am not sure the two cases are a trend.

There is surely a rising concern in the country today. It is reflected in the three times the Congress has considered it. I am not sure I have answered your question. I am a little confused, because we do already have it as far as the rates are concerned.

Mr. BLANTON. Isn't this a step, in your judgment, toward wage regulation by the Government, too?

Secretary WIRTZ. I have answered in terms of whether it would have an effect on the future, and I don't disregard that effect. When we ask whether it is a step, I suppose, it is true, and I don't mean to be facetious, but when I go home, which is 3 miles west, I take a step toward San Francisco. I don't intend to get there. I am a little worried about the taking-a-step point.

I have no difficulty with recognizing the fact that it does influence the future to some extent.

Mr. ADAMS. Would the gentleman yield?

Mr. BLANTON. Yes.

Mr. ADAMS. Mr. Secretary, what would be the position of the administration if we should follow some scheme of either ad hoc or permanent legislation on, first, who should make the determination of a national emergency, the President, the Congress or some other body?

Secretary WIRTZ. I haven't shifted gears fast enough. I don't quite understand. What would be the position of the administration if the Congress were to take a step of what?

Mr. ADAMS. A step of establishing either ad hoc or permanent legislation in section 10 as is being contemplated here for the future.

Who do you think should declare that there is a national emergency?

Secretary WIRTZ. The President or the executive branch.

Mr. ADAMS. All right.

Which is the least objectionable to you in case of a seizure, a judicial receiver, an appointed Presidential Board, or a member of the Cabinet?

Secretary WIRTZ. In the case of a seizure?

Mr. ADAMS. Yes.

Secretary WIRTZ. I am not prepared to answer that, because I am opposed——

Mr. ADAMS. I know you are opposed, but I am asking you which is the least objectionable.

If something comes out, which do you think is best?

Secretary WIRTZ. All are equally objectionable.

Mr. ADAMS. You wouldn't select one?

Secretary WIRTZ. No.

Mr. ADAMS. What is the position of the administration on the appointment of a board at the final point of selecting something from either the Fahy Panel or, if it is permanent legislation, of taking the two public offers and putting it out, a board composed of two from

management and two from labor selecting a third, or one that is appointed by the President, or a combination of the two?

Secretary WIRTZ. I think the President's suggestion does reflect a good deal of the common experience here, and it would be the identification of a group which would be denominated as representing a public interest but would include one with particular identification with, knowledge of, rich experience with, the representations of the labor and management groups.

Mr. ADAMS. In other words, you would go nomination by the two parties but selection by the President?

Secretary WIRTZ. No, I would go naming by the President.

Mr. ADAMS. With regard to seizure powers, we asked this of the Secretary of Transportation yesterday, what is the position of the administration as to whether or not there is power under 10 U.S.C. 47–42, or otherwise to presently seize the railroads?

Secretary WIRTZ. Is that the 1916 statute?

Mr. ADAMS. The 1916 statute. There is also the carryover of the World War II and Korean emergency powers.

Secretary WIRTZ. I have answered here categorically, but making it clear that I haven't had time since this question came up yesterday morning and doubt was raised on it to get a formal ruling.

My present position is that there is no authority at all today with respect to that. Out of deference to the committee and the importance of the point involved I want to check further with the Attorney General to confirm or to set aside my view. It is presently that there is no authority.

Mr. ADAMS. I thank the gentleman for yielding.

Mr. FRIEDEL. The gentleman's time has expired.

Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Secretary, does every railroad necessarily go out in the case of a strike?

Secretary WIRTZ. Two or three might be offended, but my answer is yes. By that, I mean there are two or three railroads——

Mr. KUYKENDALL. This is truly a nationwide strike.

Secretary WIRTZ. Yes. I shouldn't have been facetious.

Mr. KUYKENDALL. Several weeks ago a member of the Department of Transportation polled this committee and briefed the contents of House Joint Resolution 559. The briefing was excellent. I don't know that we have done anything but clarify the situation since that time with these very good hearings. However, at the time I was briefed I was asked, "Do you look favorably upon the resolution as you see it?" At that time I said yes.

At the present I say no, for this reason more than any other: Who said "Me thinketh you protesteth too much about this compulsory arbitration."

On the 92d day, June 21st, if these people had not reached an agreement, and they are working on it, are they not working under compulsion?

Secretary WIRTZ. Yes.

Mr. KUYKENDALL. This doesn't offend me because in the case of a truly national emergency if it came to this point, then I suppose I would have to recognize that point. But it has offended me that so

many people have protested so much to try to prove to, I don't know who, that there isn't this compulsion that you are talking about.

Secretary WIRTZ. I would not be one of those.

Mr. KUYKENDALL. A gentleman in the other body made a statement yesterday which I understand the unions gave him a pretty hard time about. He said, "We are doing everything to prevent compulsory arbitration."

Secretary WIRTZ. That is a different point.

Mr. KUYKENDALL. Let me change gears. I don't think there is anyone here that compulsory arbitration is not repugnant to.

You have stated that, and we all feel the same way. I think all of us are looking for a realistic out on the thing. We have referred to January 1, 1969. Some partisan politicians might say a few weeks after the election. You have stated that you did not see that there was any more difficulty in arriving at a new contract at the end of this contract which was more or less a compulsive contract.

I don't see how you can say that there would be no more difficulty, because it would seem to me that they would have the old, unsettled situation still with us, and new ones that had arrived in the interim.

What is your stand there? You said there would be no more difficulty.

Secretary WIRTZ. Several things, but taking just our last point first, I understood the question to be what would their legal status be as of January 1.

Mr. KUYKENDALL. I think that is what I wanted to make very clear. There would be no difference.

Secretary WIRTZ. I want to be sure about the significance as to the date, with the reference to the election. That doesn't surprise me at all. But you should know that this is the date which covers the demands of the two parties.

It seemed only appropriate that the authority of the Board here be an authority which permitted them to cover the demand of both parties—the unions' demand and the companies' offer—for 2 years. So that is the reason for that date.

I would not suggest that it would be any harder for them to reach an agreement on January 1, 1969, than it would otherwise. I think that was your point. I do not think it would be harder.

Mr. KUYKENDALL. In other words, you do not feel that the unsettled part of this particular round of negotiation would hang over into the new agreement?

Secretary WIRTZ. It would not. It would be quite similar—as this would work out, this settlement would be in the same situation that the others are. There are different patterns. There was the 1966–67 round, which we are here trying to complete. All of those will come up.

As for the election, a good many cases are going to come up in January 1968, and some more in June 1968. My only point is that this would put this case in the same pattern as the others.

Mr. KUYKENDALL. You use the term that we are here trying to complete. I think there is a difference of opinion here as to whether this would complete it or not. This would only suspend it.

Secretary WIRTZ. It would complete this round. You see, the other unions have made agreements which run to, some of them, January

1, 1968, some of them to June 1 or July 1, 1968. They work on a kind of——

Mr. KUYKENDALL. You are speaking chronologically and I am speaking philosophically.

Secretary WIRTZ. But we are both speaking practically. The point is that there would be, regardless of this case, another round of wage demands in the railroad industry in 1968 and 1969.

Mr. KUYKENDALL. One last question.

Am I to understand that Mr. Brown's premise, and it was a premise, about the difficulty that has been created by the nationwide bargaining, a look at this would truly be one of the first things you would look at in the idea of a permanent settlement of this type of legislation?

Secretary WIRTZ. Not with the implication of changing it, but looking at it to see whether it should be changed, whether it is a good thing or a bad thing, and if it is to continue what kind of adjustments should be made to accommodate the public interest in the same situation.

Mr. KUYKENDALL. It would seem to me that the one factor that the workingman would find in his best interest would be to somehow leave the strike to where he strikes against the railroad and not the general public.

I have seen the workingman put behind the 8-ball so much by this nuationwide bargaining. The union is no longer striking against the railroad but they are striking against the general public. This puts the workingman in a bad position because of the nationwide bargaining.

Secretary WIRTZ. May I take a moment to go back to the first question about compulsion?

There is no question in my mind, and I don't believe in anybody's mind, that the effect of this that the working would be by compulsion, just as indeed it is today, just exactly. There is no question about that whatsoever.

The only argument, and I take no offense at all against the objection to terminology, your position, comes with respect to the question of whether this is compulsory arbitration.

I think there is room for a very real difference of view as to that. But on the question, there should be no attempt made by anyone to confuse the question of whether there is the element of finality in here if it has to be used. There has been no question about that. I think there is another basic difference.

Mr. BROWN. Mr. Secretary, would you accept the term deferred compulsory arbitration?

Secretary WIRTZ. No.

No, it is very basic, Mr. Brown. I don't mean to go over it again.

I recognize the fact that the decision would be final with respect to that area covered here. The only question is whether it is drawn from the minds of the independent arbitrators or the history of the bargaining. I don't mean to press that point.

Mr. FRIEDEL. The Chair will recognize Mr. Macdonald, but I want to inform each member that they will be strictly held to the 5-minute rule.

Mr. MACDONALD. Thank you, Mr. Chairman. I thought the chairman had been enforcing that rule.

Mr. Secretary, I don't mean to belabor the point, but I think it is very important, at least it is in my mind, 5 minutes do run quickly

and I didn't have a chance to finish up my questions concerning the offer by the unions to cooperate with the administration or the Government concerning movement of defense material and that material that affects public health.

As I tried to indicate, it seemed to me it was very cavalierish on somebody's part to take an offer of this magnitude and just pay no attention to it.

It seems to me that the Secretary of Defense didn't even give them the courtesy of a reply about this, in my judgment, very important matter, inasmuch as we the Congress are supposed to be interested in this matter because of the public interest.

I would ask you if nobody on the side of the administration, and I don't mean you people but I mean anybody, is going to do anything about this offer, don't you think we ought to take out the language, even if this bill were passed—and I have some doubts about that—if it were passed, on page 2, where it is giving the whereases as to why this bill should be passed, "Whereas, the national interest, including the national health and defense," and so forth, "be maintained"?

If it is important enough to be put into the bill, why isn't it important enough a subject that somebody respond, somebody with some authority respond, and set up a meeting, even though you and I agree that the meeting might be a difficult one in coming down to definitions of what affects public health, as a concrete example. I think the military effort is pretty clear.

Is anybody who is interested in trying to solve this problem going to do anything with the unions on this offer?

Secretary WIRTZ. I was concerned about your first questioning, Mr. Macdonald. I am now in a position to advise you that my information, which I have obtained since we talked before, is that the Department of Defense has sent a letter, either to the unions or to this committee—and I don't know which—which does set out in some detail, not in cavalier fashion, the considerations which are involved here, and calls attention to these matters: First, the inability to handle less than carload lot shipments; second, the impossibility of moving and sorting essential freight through railroad classification yards; and, third, the difficulty in moving assembled, complete trains from one location to another.

This does not go to your question of whether there ought to be consultation. I don't believe anybody is going to object—not only object, but I don't think anybody is going to pass up—any opportunity or any possibility of discussion. It sure shouldn't be precluded, in any judgment.

I would be glad to undertake it to see that it is arranged. I think it is true that there has been more detail here in the expression of a position than at least I realized when you asked before.

Could I inquire, Mr. Chairman, as to whether that letter is a matter of record at this point?

Mr. MACDONALD. The only letter that I have is a letter addressed to the chairman of the Railway Labor Executive Association, signed by the Director of Transportation and Warehousing Policy of the Department.

It just thanks them for their letter but says, "In view of the fact that the deadline for the scheduled national strike by the Railroad

Shopcraft Unions has been extended to June 19, it would appear that a meeting as you propose is not now necessary."

I don't believe that seems to be a very well thought-out answer.

Secretary WIRTZ. I should think incomplete, at least. There is the subsequent letter that I just referred to. If it hasn't been made a matter of the record, I will introduce it as soon as I obtain it.

(See p. 142.)

Mr. FRIEDEL. We can make it a part of the record.

Mr. MACDONALD. I would like to see it, and also, aside from the exchange of letters, I hope that the matter will be taken up because whether or not a national emergency does exist would depend in large degree on what material the unions say they will carry.

Secretary WIRTZ. Mr. Chairman, I would simply respect the request of any member of the committee, regardless of anything else, that there be such a meeting and I will undertake to see that there are conversations of that kind.

Mr. MACDONALD. Thank you.

Mr. FRIEDEL. Mr. Springer.

Mr. SPRINGER. Mr. Secretary, it seems to me the big issue, at least as I see it, in which these particular unions are interested is this whole question of differences in abilities and skills.

It is my understanding, Judge, that you included job evaluation as one of the important recommendations of your committee.

Is that correct?

Judge FAHY. The Emergency Board, which was chaired by Mr. Ginsburg who was here Tuesday, recommended a job evaluation, in recognition of the fact that there were inequities which had arisen over the years—differentials between the skilled and the less skilled.

That Board also recommended—in connection with the job evaluation—the creation of what was termed an escrow fund from the carriers, out of which these inequities would begin to be compensated for as the job evaluation progressed.

Mr. SPRINGER. How long does the job evaluation take?

Judge FAHY. It wasn't specified.

Mr. SPRINGER. Did they put a limit on the time of the job evaluation?

Judge FAHY. 120 days, yes. And if they did not agree, it was to be arbitrated.

Mr. SPRINGER. On this job evaluation, there is a 120-day period. If they come to a conclusion at the end of that time, then this escrow fund was to pay these differences in skills. Is that correct?

Judge FAHY. Yes. But when my group came along—I was not on the Emergency Board—I was the Chairman with Dr. Taylor and Dr. Dunlop, of the Special Presidential Panel of Mediators which was appointed during the 20-day extension period.

Mr. SPRINGER. What did you recommend?

Judge FAHY. On that problem of the job evaluation, we took a somewhat different position but one which we thought was consistent with the general approach of the Emergency Board. That was this: We thought some "downpayment" should be made to the skilled without awaiting the completion of a job evaluation and its uncertainties.

Mr. SPRINGER. Did either party accept that?

Judge FAHY. I think without violating any mediation technique, one might term it, that is now accepted by both parties, but the amount has not been accepted. That approach was accepted.

Mr. SPRINGER. Let me dwell on this evaluation on one more problem. It is my understanding on the limited research my staff has made, that there is a substantial difference between what, we will say, a machinist on the South Side of Chicago gets who works in the yards—this is a technically different question from what you are talking about, Judge—and a machinist at O'Hare Airport, which may be in the nature of 50 cents to 75 cents an hour more, I understand.

If I am wrong about this, we will correct the record. Was anything done on that kind of evaluation as between the same skills in the same union, in the same community?

First, is my conclusion correct about this, Judge?

Judge FAHY. Yes. The principal emphasis on the job evaluation was on the compression—let me put it another way.

Mr. SPRINGER. That is within the railroad industry between the skilled and the unskilled. I am talking about another problem now, the skills within the same union, apparently doing approximately the same job. I don't know whether it takes more skill to be a mechanic on an airplane than it does on a train or not. But I take it they are relatively in the same category.

Judge FAHY. That element of differentiation was not pressed upon my group.

Mr. SPRINGER. By anybody?

Judge FAHY. No.

What was pressed, Mr. Springer, was the differences between the skills in the mechanics and journeymen in the railroad industry and comparable skills in other industries.

Mr. SPRINGER. The point I am raising in the second issue was not raised?

Judge FAHY. I wouldn't say it wasn't raised. That would be going too far. There was a suggestion by the carriers that the job evaluation would disclose not simply the differentiation—which was conceded—between the mechanics and journeymen in the railroads and in General Motors, for example, but also that some of the skilled within the unions themselves were less skilled than others, and that that should be taken into consideration.

Mr. SPRINGER. In other words, then, even within a union group there is a difference as to if you are doing a certain job you should receive more than if you are doing another job, even within the machinists or some other skills, is that right?

Judge FAHY. Yes; I think that is correct. But let me add in defense of what our group did, and I don't want to enlarge upon it because it would be subject to Resolution 559 if it passes, it would be subject to the reappraisal of the different group. We recommended in our mediation proposal of April 21, that we begin immediately to rectify that inequity by 5 cents an hour increase in the wages of the skilled.

Mr. SPRINGER. For each 6 months' period?

Judge FAHY. April 1, 1967. And another 5 cents October 1 of this year, and the final 5 cents next year.

Mr. SPRINGER. The big difference is between this 15 cents and apparently 12½ and 12½.

Mr. Secretary, to complete this, and I hope you will allow me to divulge this, at the White House it was my understanding that you said, and correct me if you did not say it, that really you thought that if you took the 6 months out, which was the difference between 2 years and 18 months, you were ordering the difference between 15 cents and 18 cents.

Is that correct?

Secretary WIRTZ. Substantially so. You are right clearly, on the record, of the difference between a union request for 12½ cents and 12½ cents, or a total of 25 cents over 2 years, as compared with the Panel recommendation of 15 cents over 18 months.

I did, you are correct, add that if you make that comparison then on an 18-month basis, the 25 cents requested by the union would translate into about 18 cents, which made a comparison on an 18-month basis with the 15 cents recommended by the Panel.

That did leave a difference of 3 cents on that basis.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Moss.

Judge FAHY. Mr. Chairman, could I supplement my answer to Mr. Springer?

Mr. SPRINGER. Yes.

Judge FAHY. I think in fairness to the problem about the differentials, I should add that the carriers in connection with that contended before us that the increase in wages which had been used in collective bargaining for about 30 years, which created this compression between the skilled and the less skilled, needed an adjustment, would be shown if the job evaluation study would be completed, that some of the less skilled had received more than they should, though they recognize there was an adjustment due in favor of the skilled.

They were willing not to offset any wages of incumbents who they thought might have received more through this scheme that has been going on for many years, but that for new employees the jobs would be reevaluated which might mean some reduction.

We didn't accept that approach, that it was time to reduce the wages.

Mr. SPRINGER. Mr. Secretary, I would like for you to place into the record how much this 3 cents amounts to in the industry for a total.

Secretary WIRTZ. Surely.

(See letter dated May 23, 1967, p. 139.)

Mr. MACDONALD (presiding). Mr. Moss.

Mr. Moss. Mr. Secretary, I will not ask for a reply now, but there seems to be an element of confusion as to exactly what has been agreed to by both parties in the settlement called the Fahy proposal.

I would like to ask you to supply the members of this committee a concise summary of what has been agreed to.

Secretary WIRTZ. Nothing Mr. Moss. The answer to that is that on none of the specifics, and there are three, has there been agreement.

Mr. DINGELL. By either party, Mr. Secretary?

Secretary WIRTZ. No, that would not be right.

Mr. Moss. That is why I asked for a concise summary in writing so that the members of this committee may have the benefit of it. The record at the moment, I submit, is a very confused one on this point.

Secretary WIRTZ. I will be glad to supply it.
(The information requested follows:)

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 23, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the request of your Committee that the Department of Labor develop estimated costs for the various proposals in the current railroad shopcraft dispute.

Comparison of the costs of these proposals is complicated by two factors: (1) they refer to different contract periods—1 year, 18 months, 2 years; (2) the proposal of Emergency Board No. 169 provides for unspecified inequity adjustments.

The attached summary presents estimates of the increase in costs under each of three proposals: (1) The recommendations of Emergency Board No. 169; (2) the Fahy panel proposal; and (3) the unions' proposal.

If I can be of any further assistance do not hestiate to call.

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

ESTIMATED COST OF VARIOUS PROPOSALS IN RAILROAD SHOPCRAFT DISPUTE

1. Recommendation of Emergency Board No. 169 (accepted by carriers)

1-year contract. 5 per cent general wage increase, retroactive to January 1, 1967. Vacation change (3 weeks vacation after 10 instead of 15 years' service). Inequity adjustments for journeymen and mechanics as determined by job-evaluation study.

The general increase (5 per cent) would raise the average hourly earnings figure from a present $2.92 to $3.066. The cost of this for one year (for 137,000 employees, 2000 hours each) would be *$40,004,000.*

The vacation change is priced at 1 cent per hour. Cost for one year: *$2,740,000.*

The cost of the inequity adjustments could not be determined until after the job-evaluation study had been made.

The total cost for one year would therefore be *$42,744,000 plus the cost of the inequity adjustments as subsequently determined.*

2. Proposal of Special Mediation Panel (not accepted by either party)

18-month contract. 6 per cent general wage increase (retroactive to January 1, 1967). Vacation change (same as Emergency Board). Three 5¢ inequities increases for 100,000 journeymen and mechanics: 4/1/67, 10/1/67, 4/1/68.

The general increase (6 per cent) would would raise the average hourly earnings figure from a present $2.92 to $3.095.

The cost of this would be:

For the 1st 12 months	$47,950,000
For the 18 months	71,925,000

The cost of the vacation change (same as Emergency Board) would be:

For the 1st 12 months	$2,740,000
For the 18 months	4,110,000

The cost of the inequity adjustments would be:

For the 1st 12 months	$10,000,000
For the 18 months	22,500,000

The total cost would be:

For the 1st 12 months	$60,690,000
For the 18 months	98,535,000

3. The most recent union proposal

Two-year contract. 6-½ per cent general wage increase, and 12-½¢ inequity adjustment for 100,000 journeymen and mechanics effective 1/1/67; 5 percent general wage increase and 12-½¢ inequity adjustment effective 1/1/68.

The general increase for the first year (6-½ percent) together with the inequity adjustment would raise the average hourly earnings figure from the present $2.92 to $3.20; and the 5 percent (and the inequity adjustment) for the second year would raise this figure to $3.45. The cost of the general increase would be:

For the 1st 12 months	$52, 060, 000
For the 1st 18 months	100, 010, 000
For the 24 months	147, 960, 000

The vacation change (same as Emergency Board) would be:

For the 1st 12 months	$2, 740, 000
For the 1st 18 months	4, 110, 000
For the 24 months	5, 480, 000

The cost of the inequity adjustments would be:

For the 1st 12 months	$25, 000, 000
For the 18 months	50, 000, 000
For the 24 months	75, 000, 000

The total cost would be:

For the 1st 12 months	$79, 800, 000
For the 18 months	154, 120, 000
For the 24 months	228, 440, 000

Mr. Moss. Mr. Secretary, in talking about precedents, when did the last railroad strike, national in character, occur without the immediate threat lurking in the background of either seizure or a congressional intervention?

Secretary WIRTZ. My answer would be that I don't suppose there has been a situation of that kind in our history, at least in the history of the last 4 or 5 years. To be sure I understand your question, you ask when has there been a nationwide strike without a threat of legislative action in the background?

Mr. Moss. I confined it to railroads.

Secretary WIRTZ. Yes, confined to railroads. I know of none.

Mr. O'NEILL. The shopcrafts in 1922.

Mr. Moss. So we really haven't, if we want to regard free collective bargaining as dealing across the table, agreeing by parties, free to employ their economic powers in order to finally force a settlement, we have really not had that kind of bargaining, have we?

Secretary WIRTZ. Correct.

Mr. Moss. The proposal here would postpone until January 1969 a settlement of some of the issues, those issues unresolved on the 91st day after the enactment of this legislation, if it is enacted, is that true?

Secretary WIRTZ. I am not sure about what you said. The present notices in this case will be covered by the action under the resolution.

Mr. Moss. I will tell you very candidly, sir, that I was under the impression, and I believe I sat through every session of the hearings in 1963, that it was the clear intent of this committee that we were dealing with a temporary settlement, and that we were not prejudicing the rights at the end of 2 years of either party. But we do have a decision by Judge Holtzoff intervening that says that we had a different intent. Am I correct?

Secretary WIRTZ. Yes, sir.

Mr. Moss. What assurance have we that in January 1969 we could not have a similar decision by another court?

Secretary WIRTZ. I would find that assurance in the difference between the issues in that case and in this one.

Mr. DINGELL. Would the gentleman yield?

Mr. Moss. Yes.

Mr. DINGELL. Mr. Secretary, would you be able to advise us what the precise difference in the issues is that would change the effect of the legislation?

Secretary WIRTZ. The critical key issue in that case was the manning as far as several classifications are concerned—the number of people who would be used.

The issue here is dollars and cents with respect to the general wage increase, the differentials, and the length of the contract. There are other issues covered by the notices filed by both parties in this case. The clear understanding of the record so far is that the wage issue here is the central issue.

Mr. Moss. Compression is also a central issue, is it not?

Secretary WIRTZ. I meant to include that.

Mr. Moss. And job classification?

Secretary WIRTZ. Not job classification.

Mr. Moss. You said there was a recommendation, I believe, in the Fahy report that there would be a survey. Am I correct on that?

Secretary WIRTZ. No, that is not right. In the Emergency Board Report there was a recommendation for a job study, but not in the Fahy report.

Mr. Moss. But there is a difference in the problem in the area of compression which is not unique to the railroads because I recall that it has been a problem in Government as long as I have been acquainted with it, going back 15 years ago to my service on the Post Office and Civil Service Committee.

We have not resolved that issue here in the Congress up to this time.

Are you optimistic that it would be resolved in the intervening approximately 18 months that the proposed resolution would be effective?

Secretary WIRTZ. I think that compression issue in this case would be resolved, with the matter now being one of a difference in dollars and cents.

Mr. Moss. Thank you.

Mr. FRIEDEL (presiding). Mr. Secretary, is any mediation going on now?

Secretary WIRTZ. None at the moment.

Mr. FRIEDEL. Why not?

Secretary WIRTZ. Let me be sure I know that you mean by mediation.

Mr. FRIEDEL. Are both sides trying to get together or are they trying to force us to pass this sort of legislation? Are they going to meet or not? I thought they would be trying to meet right now and trying to settle without our passing any legislation.

Secretary WIRTZ. There are continuing inquiries on the part of the mediators about this matter. There is no disposition shown at this point.

Mr. FRIEDEL. Is there any way we can get them together?

Secretary WIRTZ. I guess only the future will tell that, Mr. Chairman.

Mr. FRIEDEL. I think they should be trying to settle it as soon as they can, without any legislation.

Secretary WIRTZ. Could I say to Mr. Macdonald that I do have now the detailed information. The letter to which I referred is a letter of May 9 from the Acting Secretary of Defense, Mr. Vance, to Mr. Staggers, setting out the detail to which I referred.

I have also, since our second conversation, been in touch indirectly with the Department of Defense which indicates its complete willingness to meet on any further discussion of this which seems advisable.

(The letter referred to follows:)

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., May 9, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate very much the cooperative attitude of the Unions as expressed in their telegram of April 28, 1967, to Secretary McNamara, in which they stated they stood ready to attempt to arrange for continued rail transport of shipments necessary to our military effort and the public health. Unfortunately, however, the proposal contained in the telegram does not meet the national defense requirements for the following reasons:

1. The movement of essential defense materiel in less than carload lots would require special trains. This in turn would result in a slowing down of the delivery of required equipment and ammunition to the ports.

2. The sorting and selecting of railroad cars containing essential defense freight in classification yards will also delay the delivery of essential defense materiel.

3. The time required to assemble complete trainload lots will, of course, also substantially delay the shipment of essential defense materiel.

It is our belief that the nation cannot tolerate a rail strike at this time. It is also our belief that the fairest and most equitable solution is the Joint Resolution recommended by the President last week.

Either Secretary McNamara or I, accompanied by appropriate military advisors, will be pleased to appear before your Committee to amplify on the foregoing matters, or to answer any other questions which your Committee may have.

Sincerely yours,

CYRUS VANCE,
Acting Secretary of Defense.

Mr. MACDONALD. Then there will be a meeting?

Secretary WIRTZ. There is a compete willingness there.

Mr. MACDONALD. How about the railroads?

Secretary WIRTZ. I think it is safer to say that there will be a meeting. My jurisdiction isn't quite that broad.

Mr. MACDONALD. I am very happy to hear it. Thank you very much.

Mr. FRIEDEL. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman.

Pursuing the inquiry of a moment ago, I am sure if we were to hold 12-hour day hearings here for the next 90 days this committee would never fully understand the ramifications of wage compression.

Let us get down to the basic issue which concerns all of us. That is the matter of whether or not this is compulsory arbitration.

I am not going to engage, Mr. Secretary, in any argument with you over words. I believe it should not be restricted to compulsory arbitration.

As the chairman noted a moment ago, it concerns me deeply that there is no apparent effort at this time to negotiate on the part of the parties.

May I ask you further as to whether or not the President has called on the parties to meet and try to settle their differences in recent days?

Secretary WIRTZ. The President has not done so in person. There has been repeated contact by myself, and by the Under Secretary of Labor, with the parties.

Mr. WATSON. I think it is fair to say that neither of the parties favor compulsory arbitration, and one of the parties has been quite vocal in their opposition to it. I guess down home we are sort of country folks and believe in the old adage that your actions speak louder than your words. Right now I am finding it particularly difficult to wrestle with this problem when apparently those who say "don't deny us voluntary arbitration" apparently are doing nothing in trying to prove that it will work.

Do you not agree with me that the only sure way that we can avoid the passage of this legislation is for the parties to agree?

Secretary WIRTZ. I do. I call attention to the last paragraph or two of the President's message in which he transmitted this proposal, and in which he said that there is only one right way to settle it and that is by agreement of the parties, and what is called for here is an act of responsibility by the parties which would make an act of necessity by the Congress unnecessary.

Mr. WATSON. So the real solution to this problem as to whether or not it is compulsory arbitration or whether or not we have this bill enacted into law rests in the hands of the disputing parties.

Is that correct?

Secretary WIRTZ. Yes, sir.

Mr. WATSON. Did I understand you to say that the last meeting was probably April 27?

Secretary WIRTZ. The last across-the-table meeting was on April 25. There have been subsequent meetings between the mediators and the parties or representatives of the parties.

Mr. WATSON. Mr. Chairman, if I may make one very candid observation, I am not impuning the motives of anyone, but I make this observation with a great degree of personal concern: I don't believe that any parties are going to be able to get together when I observe in this hearing room that they wouldn't even sit together. It is very disturbing that apparently the differences have become so pronounced. Unless there is a third party objection here, I believe it is rather hopeless at this point.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, I have a number of points I would like to treat with you.

Can you make the flat statement that the wage scale in the railroad industry for the several crafts is commensurate with the wage scale in other similar industries, for example the Greyhound bus industry, the airlines, and perhaps some of the other portions of the transportation industry?

Secretary WIRTZ. No.

Mr. DINGELL. Would it be fair to say that, as a matter of fact, it is rather below the other industries?

Secretary WIRTZ. Yes, I think that is right. The answer would have to be broken down, but it is surely below, in some areas, on the basis of some comparison.

Mr. DINGELL. Would it also be fair to say that it is rather below the manufacturing industries?

Secretary WIRTZ. I would have to check the record on the degree of that comparison. There is a comparison available. I think it was made at Mr. Moss' request, a matter of record, in an earlier stage of these proceedings.

Mr. DINGELL. I requested similar information.

Mr. Moss. Mr. Secretary, the material I placed in the Congressional Record was developed by my personal staff, making extensive use of the long-distance telephone because I was not able to receive it here in Washington from any agency of the Government, the definitive material I wanted.

Mr. DINGELL. As you recall, Mr. Secretary, I have requested such information from you for the record. I am trying now in the absence of that to develop other matters that I think important to this committee in its considerations.

Secretary WIRTZ. I will accept Mr. Moss' statement that it is not in the record at any point.

Mr. DINGELL. I do not know whether it is or not. I have not seen it.

Secretary WIRTZ. I think it should be, and it will be.

(See p. 25.)

Mr. DINGELL. At the time the Fahy Panel recommendations are implemented, would it be fair to say that the wages which will be payable among the several crafts in the railroad industry will still be below those of other industries in the area of transportation?

Secretary WIRTZ. It would be a mistake for me to go too far in the detail of that, and I would rather rest on the information which it has been asked to be added to the record. My impression is that there would still be a differential between those rates and other rates which are comparable. I don't know how complete it is, Mr. Dingell.

Mr. DINGELL. Could you, in a fashion you regard as appropriate, in the information you are going to submit to us, give us some understanding of these points?

Secretary WIRTZ. I should amplify the answer just to this extent: One of the questions in issue is whether the whole group should be treated together, the skilled journeymen and the mechanics. My answer should not compromise that point.

I think you will find the differential is larger between the skilled journeymen and those outside than it is between some of the mechanics and those outside.

Mr. DINGELL. Coming around now to this legislation which is before us in the light of those matters, isn't it fair to say that we are going to then, by the action of this committee, legislate into being a set of recommendations which are going to leave this industry for a period of at least 2 years in a noncompetitive position insofar as wage scales are concerned?

Secretary WIRTZ. Unless we are prepared to go into the discussion of the merits, Mr. Chairman and Mr. Dingell, I think it almost compromises my position as a mediator to speak to that question.

Mr. DINGELL. You have to remember, Mr. Secretary, that we find ourselves in the very ugly position of also being mediators and also having to determine the matter of this legislation.

I want to respect your position, and if you feel as a matter of policy you are not able to make this kind of an answer, if you will submit the appropriate information to the record on the wage scales, that will be sufficient.

Mr. FRIEDEL. I think it was testified a little earlier that labor has recommended 12½ cents——

Mr. DINGELL. I would rather let the record stand as it is, Mr. Chairman, and have you make your statements on your own time.

Mr. FRIEDEL. I just wanted to repeat what was stated earlier, 12½ cents and 12½ cents for a total of 25 cents for 2 years.

Mr. DINGELL. I do appreciate that.

Now if I may continue, Mr. Chairman.

Mr. Secretary, assuming this to be so, we are legislating, then, wage settlements for a period of 2 years, either by the action of the committee or by the action of some committee delegated by law to fix the wage scales, is that right?

Secretary WIRTZ. No, I would state it quite differently.

Mr. DINGELL. We are legislating into effect wage scales in the industry, are we not?

Secretary WIRTZ. No, I think not. You would be legislating criteria which this Special Board should follow in arriving at this determination.

Mr. DINGELL. And the Special Board is going to use those criteria to fix wage scales, am I correct?

Secretary WIRTZ. I don't think it will work out that way.

Mr. DINGELL. Now, why should not the directions furnished by this committee by way of criteria be that wage scales should be comparable? That is not in the legislation which is before the committee, is it, Mr. Secretary?

Secretary WIRTZ. Fair and equitable, I think, is the standard that approaches that.

Mr. DINGELL. Do you construe fair and equitable to be comparable?

Secretary WIRTZ. "To achieve a fair and equitable extension of the collective bargaining in this case."

Mr. DINGELL. That does not say that wage scales are going to be either fair and equitable nor assure that the wage scales will be comparable, Mr. Secretary.

Secretary WIRTZ. If the question is whether the Congress should give somebody authority to go outside what the parties have offered or demanded on this case, I would urge strongly against it.

Mr. DINGELL. The simple fact of the matter is that neither party, from what I read in your statements or from what is indicated here, are satisfied with the recommendations of the Fahy Panel.

Secretary WIRTZ. That is correct.

Mr. DINGELL. So we come to a situation where we therefore will be legislating into being a set of wage scales which labor has clearly indicated are unacceptable to them. Am I correct?

Secretary WIRTZ. I think you would properly be limited to—or direct this Board to be limited to—what the parties have offered and demanded. To go outside of that would seem to me wrong.

Mr. DINGELL. Thank you.

Mr. FRIEDEL. Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

I will only ask one question. Mr. Wirtz, in responding to a question from the gentleman from Michigan. I believe, sir, you said that the railroad craft wages were below similar crafts in other transportation industries.

Mr. Dingell mentioned Greyhound, I believe, and several others.

Am I right in understanding that you said in the railroad crafts wages for similar work is below those mentioned?

Secretary WIRTZ. That is my general understanding of it with respect to the journeymen. I think there is no disagreement about that. I think it is less true with respect to some of the other what they call mechanic crafts here and on that there is an argument as between the two parties.

Mr. CUNNINGHAM. I wonder if you would express your view on this further? Are you considering just the wage that is paid or are you considering the variations in the fringe benefits which are a part of the wage package? Perhaps in the railroads the fringe benefits might be different than a similar craft in another industry.

The question is were you thinking of the whole package or just the wage paid?

Secretary WIRTZ. The general point is well taken. I don't know the details of it. That would make a difference. I think the basic point is the feeling that there has been more compression within this industry as between these journeymen and the lower paid workers than there has in, for example, the building trades, where the skilled mechanics or the journeymen, the machinists, or in the metal trades, have bargained separately.

So I think it is fairly well recognized that there is some differential when you get to that point, even taking all of these things into account.

Mr. CUNNINGHAM. Then in conclusion, what is your view or your position, or your philosophy or how you operate in the Department, when you compare wages? Do you just consider the wage rate or do you consider the various fringe benefits in your work in dealing with these disputes and consider the total package?

Do you set them aside and just deal with the wages?

Secretary WIRTZ. Any final comparison of that kind ought to include both.

Mr. CUNNINGHAM. You would include both?

Secretary WIRTZ. Yes.

Mr. CUNNINGHAM. Thank you, sir.

Mr. FRIEDEL. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Wirtz, perhaps Mr. O'Neill could answer this question: What is the average length of time it takes for a rules notice served on a party by the Railway Labor Act to be handled to conclusion?

Mr. O'NEILL. If it is a wage movement handled on a concerted basis with all the railroads, I would say a period of 6 months.

Mr. ROGERS. We have in Florida this East Coast Railway situation which has been going 4 years now.

Why is that?

Mr. O'NEILL. I didn't hear the question, sir.

Mr. ROGERS. If my information is correct, I understand there is a case in Florida where notice was given, the Florida East Coast

Railroad has been going for 4 years and there is no conclusion. Why is that?

Mr. O'NEILL. There has been a strike for 4 years.

Mr. ROGERS. But I mean even a notice since that.

Mr. O'NEILL. There have been notices by the railroads to change the agreements.

Mr. ROGERS. Why hasn't this been handled as you normally handle others?

Mr. O'NEILL. We have handled all of the carriers' notices on several of the crafts and cut them loose.

Mr. ROGERS. I understand that. But you haven't handled this last notice that they have been given. I wondered why, after 4 years. Is there a good reason for this?

Mr. O'NEILL. I don't think it has been 4 years. There has been a strike on for 4 years. A year after the strike started the carriers served notices to change the agreements.

Mr. ROGERS. Isn't this true: The railroads served a wage and notice rule in September 1963. That is not quite 4 years, but it is almost.

Mr. O'NEILL. That is right.

Mr. ROGERS. Why hasn't that been handled by your organization?

Mr. O'NEILL. It has been handled, sir.

Mr. ROGERS. It hasn't been brought to a conclusion.

Mr. O'NEILL. That is correct. There is already a strike down there.

Mr. ROGERS. But that is a different matter. It is not involved with this wage notice, as I understand it.

Mr. O'NEILL. That is correct.

Mr. ROGERS. I would like an explanation be given to us as to why you do not handle these in the same way.

Mr. O'NEILL. We have handled them extensively.

Mr. ROGERS. I would like to know about this. You say normally it takes 6 months. Here is one that has been going for 4 years. I think someone is entitled to an explanation of that.

Mr. O'NEILL. Mr. Thornton and Mr. Wyckoff werei n my office just last week about this matter.

Mr. ROGERS. I would like it publicly known. You may not be able to give it to us now, but if you could give it for the record, I think it would be helpful.

Mr. O'NEILL. I will certainly do that.

(The information requested follows:)

NATIONAL MEDIATION BOARD,
OFFICE OF THE CHAIRMAN,
Washington, D.C., May 17, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: At a hearing before your distinguished Committee on May 11, 1967, Congressman Rogers of Florida made an inquiry as to the status of some cases presently in mediation on the Florida East Coast Railway. The thrust of his inquiry was the length of time that this Board had taken to handle carrier requests for changes in wages, hours and conditions of employment. A portion of the record is as follows:

Mr. ROGERS. I would like to know about this. You say normally it takes six months. Here is one that has been going on for four years. I think someone is entitled to an explanation of that.

Mr. O'NEILL. Mr. Thornton and Mr. Wyckoff were in my office just last week about this matter.

Mr. ROGERS. I would like it publicly known. You may not be able to give it to us now, but if you could give it for the record, I think it would be helpful.

Mr. O'NEILL. I will certainly do that.

Mr. ROGERS. Thank you, sir.

The purpose of this letter is to explain the factual situation on the Florida East Coast Railway. The Eleven Cooperating Non-operating Railway Labor Organizations, including the six shopcraft organizations presently before your Committee in your consideration of H.J. Res. 559, went out on strike on the Florida East Coast Railway on January 23, 1963, due to failure of the parties to agree on a wage increase which had been agreed upon by over 95% of the railroads in the country. Up to this point, the strike is continuing and the issue over the wage increase has not been resolved. An emergency board made recommendations to settle this dispute. The organizations accepted the recommendation but the carrier declined. The organizations have repeatedly offered to arbitrate the issues which brought about the strike. The carrier refused and continues to refuse arbitration.

In September 1963, the carrier served Section 6 notices on all the standard railway unions seeking drastic revisions in the working conditions set forth in collective bargaining agreements. In almost every instance, the rules which the Florida East Coast Railway sought to change are standard rules on the great majority of Class I railroads in the United States.

In due course, the carrier requests were docketed for mediation. The mediation proceedings were extremely difficult because of the insistence on the part of the carrier of having either a recording device in operation during every conference or a stenographer present to record everything that was said. We need not elaborate on the difficulty of conducting meaningful mediation under these circumstances. The carrier requests on the Operating Organizations have been processed through the Act. When the carrier promulgated its new set of operating rules, the Operating Organizations also went on strike. In sum, every standard railway labor organization, both operating and non-operating, is now on strike on the Florida East Coast Railway.

It is assumed that Congressman Rogers' inquiry has reference to our Cases A–7027, A–7055 and A–7055, Sub. 1. *Case A–7027* involves a request by the carrier to cancel the union shop agreement. *Case A–7055* involves drastic rules revision whereby the agreements with the Seventeen Cooperating Railway Labor Organizations would be merged into one agreement covering all non-operating employees; craft lines would be destroyed. *Case A–7055*, Sub 1 deals with a notice served in September 1965, seeking to adjust the rates of pay set forth in the proposed agreement in Case A–7055 by 10%.

The changes sought by this carrier in these cases constitute the most far-reaching mutilation of existing agreements that has ever been before this Board. The relief sought by the carriers generally, embodied in Public Law 88–108, was extremely gentle by comparison.

On March 5, 1967, this Board did close out a similar case involving the Brotherhood of Locomotive Engineers. At the time that action was taken, the wire services carried a story that the National Mediation Board had approved the rules changes proposed by the carrier. Said wire services quoted the president of the railroad as making such a statement. The National Mediation Board does not at any time approve or authorize changes in collective bargaining agreements. Its function is limited solely to assisting the parties in reaching an agreement.

Hopefully, someday, the prolonged strike on the Florida East Coast Railway will be settled. However, it is only fair to report that at this juncture, a solution is not in sight. It had been our expectation that the identified cases could have been resolved as part of an overall package settlement of the many pending disputes on this railroad. In the present state of affairs, however, we will more than likely have to take the next step under the Act, which is to urge the parties to arbitrate the issues. If history is any guide, the carrier will refuse to arbitrate.

Sincerely yours,

FRANCIS A. O'NEILL, JR.,
Chairman.

Mr. ROGERS. Thank you, sir.

Mr. FRIEDEL. Mr. Brotzman?

Secretary WIRTZ. Mr. Chairman, may I say that the information Mr. Dingell and Mr. Moss requested be supplied will be made a matter of record either tomorrow or on Monday.

Mr. BROTZMAN. I have no questions, Mr. Chairman.

Judge FAHY. Mr. Chairman, may I make a brief statement in connection with the matter that Mr. Springer was interested in—job evaluation?

Mr. FRIEDEL. You may.

Judge FAHY. There are two points I would like to make.

One, the Emergency Board in its report stated, "Both parties agree that there is a serious wage compression and that it cannot be corrected in a single step."

At that point in the Emergency Board report, the Board dropped a footnote and a quotation from the brief filed with the Board by the employees. That reads as follows—

> We admit that full correction of what 30 years created cannot be accomplished at one time and that completion would necessarily have to be phased out over a reasonable period of years.

So the 5–5–5 formula for the increase in our proposal was not designed to close the gap, and with the full understanding of the parties that it could not all be done at once.

The second point I would like to cover in this, which I think Mr. Springer might want to have in the record, the recommendation of the evaluation study made by the Emergency Board.

That contemplated that the parties would seek agreement on the procedure for the evaluation within 60 days from the filing of the Board's report. But when they had agreed on the procedure to be followed then the study would be completed within 120 days after the study began, or such longer time as the parties agreed was necessary.

Mr. FRIEDEL. Thank you.

Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Secretary, you have been with us now for 2 days. I again want to thank you for your appearance and for your very forthright and helpful answers.

I know you have come to us with the complete conviction that we have to do something. I believe the members of this committee share that feeling. Although you have been barraged with a lot of questions, I think every member of this committee wants to meet his responsibility, although sometimes some of the questions are a bit irrelevant.

It seems to me that if we do not pass this particular resolution or something similar to it, then we do have either a strike or we have seizure.

In your own words, in your own statement, Number 1, we could not have a strike because it would be catastrophic, it would affect the national health, welfare and safety coming at this point.

You said that such a point did not even enter your mind, the possibility of a strike.

Secondly, it seems to me we can go the other alternative, then, of seizure, which means that the Government gets into the operation, the direction and the maintenance of the railroads. We would get into the problem of setting wages and profits; the problem of accidents;

unemployment insurance; all phases of the operation of this particular industry, and these would lead to other problems.

Additionally, where, then, do we draw the line? Why don't we admit that eventually the Government would have to go into every kind of industry? I think that makes seizure that much more unpalatable.

I would think if you got into seizure, in effect, the parties from that point on would probably be resigned to never really effectively attempt collective bargaining. It would be "We will let the Government take it over."

I think in answer to the statement of the gentleman from Florida, you said the parties have been given ample opportunity. Whether it has been 18 months or 3 years that this has been going on, surely we must say that the parties have been given every fair and reasonable chance to get together and they have not done it.

So it seems to me, then, that after having gone on for upward of 3 years, somebody has to say at some point, "This is a solution; this is a fair and equitable answer." I take it that is what you attempt in this resolution to do.

I think we have reached a point, Mr. Secretary, and this is not a question but just a feeling of my own, where the U.S. Congress or the Government must say to the unions and must say to management that, "You are not bigger than the Government." We must say to the union and to the railroads, "You are not above regulation, and you are not above the law."

Even though none of us want to weaken collective bargaining, I think we have reached a point where we must say that collective bargaining, or even the right to strike, is not above Holy Writ. It is not holier than the scriptures. Therefore, it is not improper for us to consider this resolution.

For us to consider this bill, the resolution that you have, in my opinion is not an attack on motherhood. It is not an attack on our patriotism. I think it is an honest effort by your Government to try to find a solution to the problem that has been nagging and hanging on, threatening, upward of 3 years.

Some members have asked for additional information to be submitted for the record, letters, conferences, inserts, a very full submission about wages, as if we ourselves were going to establish which is fair and right.

The inference has been, Mr. Secretary, it seems to me, that we are not quite satisfied that there is either an emergency or that somebody would be hurt, or that the health would be affected, and other similar doubts. To me it would be as if you were to make a statement that "you would be seriously hurt if you were run over by a railroad locomotive," and then for some member to ask that written proof be submitted to prove that you would be hurt if you were run over by a locomotive.

I think it is fine to have this information, but we are really just delaying the answer. I think this committee must measure up to its responsibilities. I do not agree with you that we do not need to be considering some kind of permanent legislation. I think that is long overdue. But I assume what you are trying to do is to limit your discussion to this specific resolution and the consideration of permanent legislation is something we must face at some other point.

Secretary WIRTZ. That is correct.

Mr. MACDONALD (presiding). The time of the gentleman has expired.

As I was called out of the room, Mr. Secretary, you told me that the letter had been sent about a meeting.

Secretary WIRTZ. No, not about a meeting; that the letter had been sent about detail. You had a letter which you described as cavalier, to which I would not take exception. I do refer to a subsequent letter of May 9 to Chairman Staggers from Acting Secretary of Defense Vance, in which he sets out details, and I did add, in light of your inquiry here, that we have communicated by phone to the Department of Defense. We have gotten a reply that they would, of course, be glad to have the discussions.

Mr. MACDONALD. The letter didn't deal with the meeting, but it was your phone call which dealt with the meeting, and the response was to your phone call. It has nothing to do with the letter received by Mr. Staggers.

Secretary WIRTZ. That is correct.

Mr. MACDONALD. So the date of the message about the meeting is today; is that correct?

Secretary WIRTZ. The date of that message is today.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. Mr. Secretary, I would like to follow up on a point made by Mr. Pickle.

If we are to consider the comparability of skilled wages between rail and air or the trucking transportation industry in determination of the issues in this situation, then shouldn't we also consider rate differentials set by Federal authority which affects the profitability of railroads and, for that matter, that profit factor that exists in railroads now, whether they are in a good position or in a bad positon?

Secretary WIRTZ. I don't believe my comment on that would be very helpful. I would have a real question on it. If you were asking me, I think it almost presumptuous for me to answer.

It would seem to me it is a question as to whether any of that is germane, particularly with regard to the recommendation the administration is making.

Mr. BROWN. I would agree with that. If we are going to get into the relative wage levels and skills between different industries, we have to consider the overall picture for the industries, the wage schedule, the profitability, and so forth.

You have been asked to submit some of that information for the record. This, then, gets us into the relative value of the present subsidies, historic subsidies, and the whole gamut of this regulated industry, doesn't it?

Secretary WIRTZ. You will understand my respecting that as a statement and there is not much I could add by way of answer to it.

Mr. BROWN. What I am getting at, Mr. Secretary, is this: It seems to me that we have two separate problems here, and I would ask for your concurrence or disagreement on this. One is how to deal with this instant case, and the other one is whether or not we can at some future date legislate, or the administration can recommend legislation, which would avoid a repetition of cases of this nature.

Secretary WIRTZ. That is correct.

Mr. BROWN. Do I understand that you do not feel that the second thing can be done?

Secretary WIRTZ. No. I think some answers of mine the first day may have contributed to that. I will try to correct them. I think both can be done.

Mr. BROWN. And should be done?

Secretary WIRTZ. Yes.

Mr. BROWN. And will be done at least in the instant case. What about the other cases?

Secretary WIRTZ. I am assuming there will be a subsequent consideration of the longer range problem.

Mr. BROWN. Based on recommendations by the administration?

Secretary WIRTZ. There has been the indication from the President, now some 16 months ago, to that effect. I would expect that. I would not be in a position to say anything specific as to the time of it.

Mr. BROWN. I wonder if it is proper to ask if that recommendation would come after the resolution of the instant case?

Secretary WIRTZ. Yes; I think it is fair to assume that.

Mr. BROWN. And prior to the next date in the instant case, which would be January 1, 1969, at the extremity?

Secretary WIRTZ. I am not in a position to answer that question.

Mr. BROWN. Mr. Secretary, I would like to submit that if you are not, I think no one is. I must, of necessity, be critical of that.

Secretary WIRTZ. No offense at all.

Mr. BROWN. I feel that the problem is such, and it has been recurrent to the extent, that such permanent recommendation must be made. If it is not, then the Congress may have to act without recommendation. Would you prefer that?

Secretary WIRTZ. Mr. Brown, let me make just these two comments: You understand the properties that are involved as far as my declining to answer are concerned, because that must come from the President.

But you will understand, too, I am sure, the justification for my pointing out that a meaningful recommendation from the administration would be one which takes account of the possibilities of its passage.

I known of no further testimony or more complete testimony to the difficulties of that particular point than the preceedings of the last couple of days. If we have this much trouble finding a common ground with respect to what to do about this case—which I should have thought was an extremit case—if there is this much difficulty in finding any kind of consensus of approach here, you do appreciate the considerations, which means that a responsible recommendation to the Congress on permanent legislation ought to take account of that same division of view.

Mr. BROWN. May I summarize that comment to suggest this: Are you advising us to act on this instant case and consider permanent legislation later?

Secretary WIRTZ. I worry only about the "advise." If you mean do I think that is a good thing to do, yes.

Mr. BROWN. Let me put it another way. You think we ought not consider permanent legislation now but, rather, this legislation which is aimed, as you have tried to point out, at this instant case only?

Secretary WIRTZ. Yes, sir; I do feel that very strongly.

Mr. BROWN. But ultimately we must get into permanent legislation.

Secretary WIRTZ. Yes. I think that is right. The only reason I draw back is that if this were to connote permanent legislation of this same type, I would not be convinced that that is the right answer to it. The consideration of the longer range problem, yes, I think should be taken.

Mr. BROWN. Permanent legislation aimed only at avoiding a recurrence of the threat of a nationwide rail strike?

Secretary WIRTZ. I wouldn't go into it that much. We are so much along the same lines in our thinking that I hesitate to seem to differ. I would suggest only that that consideration take account of the kind of thing that was referred to here earlier in our conversation and discussion, the whole of the collective bargaining, not just the sanctions in this case.

Mr. BROWN. One final question.

Mr. PICKLE. Would the gentleman yield for a moment?

Mr. BROWN. If I can get in this line of questions before my time expires, I would be delighted.

Mr. MACDONALD. You don't have terribly much time.

Mr. BROWN. If I may finish my question, then, please.

We have the same problem, do we not, cases in extremist with references to the trucking industry, some communications industry, some parts of the communications industry, and others, perhaps not as severe as the rail strike, but to a relative degree; is that correct?

Secretary WIRTZ. Not current.

Mr. BROWN. Not current, but the possibility is there.

Secretary WIRTZ. The problem centers, in my judgment, in the transportation industry. It includes the newspaper industry, it includes the defense plants, particularly.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. PICKLE. Would the gentleman yield?

Mr. ADAMS. In just a moment I will, Mr. Pickle.

Mr. Secretary, you testified to one of the other questions that the last meeting was on April 27 between the parties.

The reason I ask this question is because you have indicated that even in public interest strikes you do not believe we should take, in effect, the lid off collective bargaining and require public disclosure of last positions. I would like to know this:

This, and I happen to disagree with you on that——

Secretary WIRTZ. So do I disagree. I think public disclosure is a good thing and it is contemplated by this resolution in connection with the hearing at the end of 60 days. I think it is a good thing. I am sorry I misunderstood you.

Mr. ADAMS. I will ask you this question, then: Has there been a later proposal submitted after the Fahy proposal to the two parties? If so, what was the result?

Secretary WIRTZ. I would be very reluctant to answer that and would do so only on the express instruction of the committee and only after advising the committee that to answer the question at this point

would make my utility as a mediator in this case zero. That may be a low price to pay.

Mr. ADAMS. Mr. Secretary, I think it is a high price. We will discuss it here in the committee. It goes to the basic points we just mentioned. You and I both agree that public disclosure is a good thing, but you take the position you should not do it here and I respect that and would not go farther until we have discussed it in committee.

But I think it should be contemplated as something that we will certainly be discussing to have you do. If the public doesn't know where the parties finally are, it puts a very different connotation on the whole picture.

Secretary WIRTZ. I am sorry I lost that point in your first question because I would agree with that point very strongly and would point out that it is reflected to a considerable degree in this suggestion.

Mr. ADAMS. I will yield to the gentleman from Texas.

Mr. PICKLE. Thank you for yielding.

In answer to the gentleman from Ohio's question a few moments ago you said you wanted to limit your discussion primarily to this specific resolution, although you did think it would be proper and in order for this committee to later consider permanent legislation.

But you just now said you would not recommend this as permanent legislation, nor anything similar to it. You had told me a day or two ago, on Monday, that yeu weren't recommending anything in particular. I wanted to be sure that you weren't saying whatever we passed upon would never be considered again. It might or might not.

I assume that is your intent. My measure, I think, is "somewhat similar." But at the same time, if we are not to discuss it now, I would respect that. I want to be sure you are not ruling that out. You don't intend that?

Secretary WIRTZ. You have stated my position exactly.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. ADAMS. I have no further questions, Mr. Chairman.

Mr. MACDONALD. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, I think there is another very important point to have careful consideration of. If you will, direct your attention to section 5 of the bill. It says if an agreement has not been reached by the parties upon expiration of the period specified in section 6—

> The determination of the Special Board shall take effect and shall continue in effect until the parties reach agreement or, if agreement is not reached, until such time, not to exceed two years from January 1, 1967, as the Board shall determine to be appropriate. The Board's determination shall have the same effect including the preclusion of resort to either strike or lockout as though arrived at by agreement of the parties under the Railway Labor Act.

At the conclusion of the 2 years, if the parties have not reached agreement, would it be necessary for the parties to serve section 6 notices under the Railway Labor Act?

Secretary WIRTZ. Yes, I think it would be.

Mr. DINGELL. Then upon conclusion of the 2 years, the parties would be compelled to wait another additional period before they could engage in any strike or management could engage in lockout.

Secretary WIRTZ. You are right, and it is a very important point.

I think the Board's determination, if it goes to that, would properly cover the point of the time at which section 6 notices could be served, which might be at an earlier period.

Mr. DINGELL. But, as a matter of fact, we have then arrived at the position where the period involved in this legislation is well in excess of 2 years.

Secretary WIRTZ. No, it would depend upon the determination. I should point out, of course, that the period may be shorter than 2 years, either by agreement of the parties or by determination.

I would point out, second, that it would seem to me properly within the Board's authority, the point you have in mind, to indicate that time at which section 6 notices could be instituted, taking account of the time period involved so that it would not necessarily result in more than the 2-year period.

Mr. DINGELL. Let me ask you, Mr. Secretary, how long has it been since there has been any meaningful negotiation between the parties?

Secretary WIRTZ. Meaningful negotiation?

Mr. DINGELL. Yes.

Secretary WIRTZ. Negotiation is too broad a term. I can tell you the facts. The facts are that there was an across-the-board on April 25 and there subsequently have been conversations between the mediators and the parties.

I think the answer to your question is May 1.

Mr. DINGELL. The reason I asked that question is that there have been reports in the paper, in the press, attributed to a number of persons involved in this, that there have been no negotiations for a substantial period of time on the real issues at stake now. Am I correct in that?

Secretary WIRTZ. The more we get into this, Mr. Chairman, and I would like to raise a point that I think is of real importance——

The CHAIRMAN. Yes, Mr. Secretary?

Secretary WIRTZ. I am being pressed about negotiations since the last period. They are proper questions and I will answer them, but let it be understood the more than point is pressed with me as a mediator, the more I am going to just shut up about mediation and not do a single thing about it. I cannot talk with these parties privately and then get up an testify as to what, when, and who. We can do it one way or the other.

Mr. DINGELL. Mr. Chairman, I still have the time.

The CHAIRMAN. I know.

Mr. DINGELL. I only have 5 minutes under the rule. I would like to control my time.

The CHAIRMAN. Just a moment.

Mr. Secretary, I sympathize with your stand, but this committee has a very important job to do and I think they are entitled to get everything they can get. Mediation evidently has fallen on its face as of now. It has been brought to the Congress and turned over to us.

I think this committee, acting as a jury of 33, is entitled to get every bit of information, and no one should hold back anything that will help us to make a decision. That would be my ruling on this.

Secretary WIRTZ. I will answer every question, but I will tell you right now, Mr. Chairman, that from this juncture on I will not be in a position to contribute at all in mediating this case.

You are dead right. This committee and the public is entitled to full information, and I will surely answer any question that you put. But you will understand, too, that that means that to testify here, to try to mediate over here, is an impossible combination.

I respect the ruling and I will comply with it, but I simply tell you that will preclude any possibility of negotiations.

The CHAIRMAN. I understand. I think the committee will bear with that. The question has been brought to the Congress now. It is our duty here to get every single shred of evidence that we can possibly get, anywhere on earth, and by any method in order to make a decision when we have to make that decision.

I do believe, perhaps, some of the questions could have been directed to the unions and to the railway organization when they are before the committee. I do say that. But I will not stop any committee member from trying to get any bit of evidence they can get in a legitimate way. The fact is that some of this perhaps could have been gotten from the rails or from the unions.

Secretary WIRTZ. I not only respect your ruling, but I think it is right.

Mr. DINGELL. Mr. Chairman?

If at any point you feel the questions are not appropriate or not proper, Mr. Wirtz, I hope you will feel free to tell us.

Mr. ADAMS. Might I suggest, Mr. Chairman, that we meet on this question as a committee in executive session and make a decision on it, reserving the right to recall Mr. Wirtz at a later time if this information becomes vital?

The CHAIRMAN. I have made a ruling on it. I think if we have an executive session we will have 25 or 32 different opinions.

Mr. DINGELL. Mr. Chairman, may I continue?

Mr. Secretary, in your statement on your first day of appearance before this committee, you made a number of comments with regard to the conduct of negotiations, some of which you had assurances that the matter would be concluded before it would be necessary, before the last 30-day period.

In other words, you felt that the matter would be resolved within the 90-day period. Is that correct?

Secretary WIRTZ. Yes.

Mr. DINGELL. That being so, Mr. Secretary, would I be fair in inferring that perhaps it may not be necessary to include in the legislation any matters that follow that 90-day period, except to legislate the men back to work for that 90-day period, and to leave off the requirement that wages be fixed other than as provided in the first 90 days, and that the men be forced back to work for that 90-day period?

Secretary WIRTZ. I expressed an expectation, Mr. Dingell, but the country needs an insurance policy.

Mr. DINGELL. The insurance policy is now setting in a serious matter, Mr. Secretary. As you know, the Congress is an insurance policy on this matter. We are not being asked to consider permanent legislation; rather, we are being asked to consider an ad hoc approach to what is apparently a great problem.

Secretary WIRTZ. In this case—your suggestion is right.

Mr. DINGELL. With regard to this other matter, I would like to hear from you how much negotiation went on during the time what you referred to as compulsory arbitration was taking place in the three prior to the 1963 legislation.

Secretary WIRTZ. A very great deal.

Mr. DINGELL. How much of the issues were resolved during that period?

Secretary WIRTZ. None.

Mr. DINGELL. So we really have no assurance that the matter will be concluded in the 2-year period in House Joint Resolution 559. We have no absolutely firm assurances that we will not find this matter in our lap at the end of 2 years; is that correct?

Secretary WIRTZ. I misunderstood your question. I thought it was how much went on during the period that Congress was considering the legislation, how much was settled during that period.

With respect to the period covered by the resolution, a very great deal was settled in addition to those matters covered by the Arbitration Board that was set up. In fact, all the other issues were settled, if my recollection serves me right, with the exception of the interdivisional run issue.

Mr. DINGELL. Thank you very much.

The CHAIRMAN. Mr. Watson?

Mr. WATSON. Mr. Chairman, I would like to make one observation. Apparently at this juncture I am the ranking member on this side.

Mr. Secretary, it certainly was not my intention, and I don't believe it was the intention of anyone on this side of the committee, to jeopardize your position or to impair it as a mediator in this dispute.

So far as my questions, which were addressed to you, I was concerned about the absence of negotiations at this time. I don't recall during the time I have been here in this hearing that anyone on this side asked you specifically to comment on any of your discussions or any dialog that you had during the course of your mediation.

Mr. Chairman, I want to make that expressly clear on my part and on the part of the committee members on this side.

Secretary WIRTZ. Thank you

The CHAIRMAN. Mr. Brown?

Mr. BROWN. I want to make that point, too, Mr. Chairman, and associate myself with the gentleman from South Carolina in that regard.

I think it would be a grave error to jeopardize the effectiveness of the Secretary of Labor as a mediator in this case. I am sure every member of this committee would like to see the case resolved before any action would have to be taken on House Joint Resolution 559.

For that reason, I would hope that if there are areas, Mr. Secretary, which you consider delicate and jeopardizing your position, Mr. Secretary, you would so advise us. It seems to me that such questions could be pursued, if they must be pursued, with you in executive session, or could, as you suggested or someone else suggested, be pursued with the representatives of the unions and the management in this case.

Secretary WIRTZ. It wouldn't help me any if it were in executive session. It may make it worse.

Mr. PICKLE. Mr. Chairman——

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. Mr. Chairman, I was going to make the point of order that the House is in session.

The CHAIRMAN. The point of order comes too late. The committee is going to recess right now.

Mr. Wirtz, Mr. Fahy, and Mr. O'Neill, I want to say thank you very much for coming up to give us the benefit of your views. These are trying hearings and I know you have been busy these last 3 days. I appreciate your patience in trying to help the committee. We are trying to do what you are trying to do—to do the best we can for the public interest of the Nation.

Sometimes we may seem to be at cross-purposes, but I am sure we are seeking the same result.

Again, I want to say thank you for coming before the committee, and thank you for the presence of your distinguished advisers you have with you.

Secretary WIRTZ. I only feel a great respect toward the approach this committee is taking to this matter, Mr. Chairman. I speak for my colleagues in expressing our unqualified appreciation of your approach to us in this matter.

The CHAIRMAN. Thank you.

Would you be available if this committee needs you sometime in the next week?

Secretary WIRTZ. Yes; at any time.

The CHAIRMAN. Perhaps in executive session, if we so deem, but, if not, in open session?

Secretary WIRTZ. Surely.

The CHAIRMAN. The committee will adjourn until next Tuesday morning at 10 o'clock.

(Whereupon, at 12:18 p.m. the committee adjourned, to reconvene at 10 a.m., Tuesday, May 16, 1967.)

RAILROAD LABOR DISPUTE

TUESDAY, MAY 16, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The committee this morning will resume hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Our first witness this morning will be Mr. James E. Wolfe, chairman, National Railway Labor Conference.

STATEMENT OF JAMES E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE; ACCOMPANIED BY W. E. QUARLES, JR., VICE CHAIRMAN; AND MAYNARD PARKS, VICE PRESIDENT, MISSOURI-PACIFIC LINES

Mr. WOLFE. Thank you, Mr. Chairman and members of the committee.

I would like, if I may, Mr. Chairman, to introduce those who are with me this morning.

To my left is Mr. W. E. Quarles, Jr., vice chairman, National Railway Labor Conference, a former officer of the Atlantic Coast Line Railroad.

At my right is Mr. Maynard Parks, vice president of the Missouri-Pacific Lines.

Both of these gentlemen have had many years in labor relations work.

I want to thank you very much, Mr. Chairman and gentlemen, for having the opportunity to appear before you today. I do not have a prepared statement. My statement, however, will follow very closely the statement I made to the Senate committee.

First, I think I should introduce into the record, as precisely as I may, the chronology of this dispute. In doing so, I shall refer, from time to time, to the record before me in the interest of accuracy and also brevity.

After introducing the chronology of the dispute into the record, I shall then discuss aspects of this dispute which are peculiar to this particular controversy. I shall then discuss the record that was before Emergency Board No. 169. That is the Board that was composed of Chairman Ginsburg and Frank Dugan, professor of law of George-

town University, and Mr. McConnell, president of the University of New Hampshire.

I will also refer, Mr. Chairman and gentlemen, to the record before that Board and the report and recommendations of the Board.

I shall also discuss what transpired in connection with the Special Mediation Panel composed of Judge Fahy, Dr. John Dunlop, and Dr. George Taylor, which I believe will be of interest to this committee.

Mr. Moss. Mr. Chairman, I would like to ask why we have no prepared statement on a matter of this significance when the rules of the committee require that witnesses appearing present a prepared statement in order that the members of the committee have an opportunity to follow it and to be better prepared for appropriate examination of the witnesses?

The CHAIRMAN. I might ask the clerk if he so notified the witnesses who were to appear, if they were to have a statement in writing.

Mr. Moss. Mr. Chairman, I would strongly urge that all witnesses be so instructed in the future of the rule of the committees of the House, on the matter of preparing their statements for the benefit of the members.

The CHAIRMAN. According to the precedents of the committee, we have always asked that where possible we do have a prepared statement. In this case, as I understand, the different witnesses were notified by telephone, not by letter. It is customary for the committee to have prepared statements of the witnesses. However, the gentleman will proceed in this fashion.

Mr. WOLFE. Thank you very much, Mr. Chairman.

By way of explanation, and perhaps apology, I did testify before the Senate committee in the same manner that I intended to testify before this committee. I did not know that I was supposed to submit a written statement. Had I that knowledge, I can assure you that it would have been available this morning. I am sorry if there has been a misunderstanding.

The CHAIRMAN. I think you have appeared many times before this committee, Mr. Wolfe. It has been the precedent that we require all statements in 5 days ahead of time, before testifying before the committee.

Mr. Moss. If the chairman will yield, that precedent is in the rules of the committee.

The CHAIRMAN. The gentleman will proceed.

Mr. SPRINGER. Mr. Chairman, may I say in deference to Mr. Wolfe that the greatest witness before this committee that I ever saw was Bobby Kennedy on the satellite corporation. He took 14 minutes and he did not have a single note for a single statement, so I don't think the quality of the testimony is determined by whether or not you have a written statement.

On the other hand, if that is the rule of the committee, of course, that is the rule. But I do give that as a background; that a statement does not necessarily determine whether or not you cover all the issues.

Mr. WOLFE. I shall do that to the very best of my ability.

This dispute arose on May 17, 1966, by the serving of notices by the unions upon the individual railroads as required by the Railway Labor Act, as amended in 1934. The law requires that the carrier receiving such a notice acknowledge receipt thereof within 10 days and set a

date for conference, which must be held within 30 days from the date of the notice, unless there is a mutual agreement to defer.

There was no such agreement and, therefore, the initial conferences were held as prescribed by law.

In June 1966, on various dates, the carriers, parties to the dispute, served counterproposals. Conferences were held by the parties in July and August 1966. These conferences were between the system committees and representatives of the individual railroads. No agreements were reached.

In the meantime, the unions had requested that the dispute be handled on a national basis.

On September 28, 1966, discussions and negotiations began at the national level. On October 12, 1966, the parties mutually agreed to request the assistance of the National Mediation Board.

On October 19, 1966, mediation began and continued intermittently through January 6, 1967.

On October 25, 1966, the unions authorized a strike for February 13, 1967.

On October 27, 1966, the Chairman of the National Mediation Board proposed a settlement to the parties. The settlement proposed by the National Mediation Board followed almost completely the pattern settlements that had been made with several other unions.

The railroads accepted this proposed settlement, but it was rejected by the unions.

On January 6, 1967, the National Mediation Board, carrying out a mandatory function under the Railway Labor Act, proffered arbitration to the parties and endeavored to induce the parties to refer the dispute to the procedures of arbitration. The carriers accepted the proffer of arbitration; the unions rejected it.

On January 28, 1967, President Johnson, after being notified by the National Mediation Board that the dispute threatened to substantially interrupt interstate commerce so as to deprive the country of essential transportation service, created Emergency Board No. 169.

That Board, whose members I identified earlier, was chaired, as I indicated earlier, by Mr. Ginsburg.

For brevity and perhaps more precise identification, I shall hereafter refer to the Emergency Board as the Ginsburg Board.

The Emergency Board began its hearings on February 1, 1967. The parties, at the suggestion of the Board, streamlined their respective cases so that only material sufficient to bring out all of the essential facts in the case, and establish a clear understanding of the issues involved and possible solutions was presented.

That material was presented through exhibits, witnesses, argument of counsel, and finally the closing argument which, at the request of the Emergency Board, was submitted in the form of briefs.

The recommendation of that Board, in our opinion, was generous, very generous. Those recommendations did provide for a peaceful solution of what had become a very perplexing and disturbing controversy.

After most profound deliberations on the part of those of us who have the responsibility of representing the carriers, we concluded that the best interests of the public, of the employees, of the unions repre-

senting those employees, and the railroad industry would best be served if the carriers accepted the recommendations.

We did so accept and we publicly stated that we would negotiate an agreement within the framework of those recommendations.

The unions rejected the report. Their spokesman, the vice president of the International Association of Machinists, stated publicly that the recommendations were wholly inadequate and absolutely unrealistic. This same spokesman also had certain rather unkind things to say about the members of the Emergency Board.

On March 28, 29, and 30, 1967, the time of the parties was consumed by discussion of the Emergency Board recommendations.

On March 31, 1967, the National Mediation Board moved back into the dispute after the parties, unfortunately, had made little or no progress in solving their dilemma.

On April 6, 1967, Secretary of Labor Wirtz and Under Secretary Reynolds began separate talks with the parties. A suggestion was made that the deadline for a strike be deferred. We understood that this request came directly from our President.

The carriers accepted the request that there be a deferment so as to give the parties a greater opportunity to try to solve their own difficulties without further assistance from anyone and without causing uncertainties and apprehension in our country.

On April 10, 1967, President Johnson sent a message to Congress asking for a 20-day extension of the period of statutory restraint during which neither of the parties could legally resort to helf-help. We agreed to that. The unions did not.

The House committee, as we understand it, almost immediately approved this resolution. We appeared before the Senate committee and at that time the Senate committee again made an effort to secure a voluntary acceptance of the request of the President for a 20-day deferment of the restraint period.

At that hearing, the chairman of the Senate committee made a personal request upon the parties to agree among themselves to the suggested deferment, and the two spokesmen for the unions said that they would recommend to their associates that the deferment be granted.

Later it was reported to the Senate that the request of the President had been refused, and it was stated to the press that the rejecion was unanimous. That seems somewhat surprising in view of the fact that two members of the committee had stated to the Senate committee that they would affirmatively recommend that the deferment be accepted.

That came as a surprise to many, but not to me, because that was the kind of good-faith bargaining we had encountered from the very beginning.

On April 11, 1967, the Senate passed the 20-day resolution by a vote of 81 to 1. The House passed it 396 to 8.

On April 12, 1967, the President appointed a three-man panel to help the parties mediate their differences, and it was also provided that if the parties failed to reach an agreement this Special Panel would make such recommendations as it deemed to be appropriate in an effort to resolve the controversy.

On April 12, 1967, the unions set a new strike date for 12:01 a.m. May 3.

From April 14 to April 23, the Special Presidential Panel, sometimes referred to as the Judge Fahy Panel, met with the parties in an effort to settle the dispute.

On April 24, the Mediation Panel reported that the dispute was deadlocked. At this point I think I should state for the record that the Special Presidential Panel was composed of Judge Fahy as Chairman; Dr. Dunlop, chairman of the Department of Economics of Harvard as a member; and Dr. George Taylor, of the Wharton School of Finance was also a member.

That Board was composed of perhaps as experienced and knowledgeable men as you will find in this country in this particular line of endeavor.

The proposed settlement terms were more costly to the carriers than those recommended by the Ginsburg Board. They were rejected in their entirety by the unions. The railroads before the Senate committee made a statement to the effect that the carriers would accept part of the Fahy Panel recommendations, and it was rejected in part by the carriers.

On April 25, 1967, the day following the Senate hearing, I called Mr. Fox, the chief spokesman for the unions, and suggested that we meet in conference at 10 a.m. that morning. We did so meet.

After discussions, which at the outset involved only the so-called across-the-board increase—by that I mean the increase that would be granted to all employees represented by the six organization parties to the dispute, irrespective of degree of skills, duties, and responsibilities, or any other of the elements that are generally accepted as a measurement of wage levels—it developed at that conference that the unions were unalterably opposed to that part of the Fahy Panel recommendations dealing with the across-the-board increase. They stated that they would not settle for that.

At that time, and I make this statement so that the record will be absolutely clear, I stated on behalf of the railroads that we would not go beyond the Fahy recommendations insofar as the across-the-board part of the settlement is concerned.

It was obvious, after we had explored that part of the dispute, that we were not going to make an agreement. A report was made to the Senate committee to that effect.

At the close of the last Senate hearing, immediately preceding the conference on April 25, 1967, Senator Robert Kennedy, of New York, propounded a question to the spokesman for the unions and also to me. His question was this:

> Gentlemen, if you will not accept the Fahy recommendation, why would you not do so? I would like you to particularly give me a definite answer as to whether you will or will not accept it.

On April 25, 1967, at the very close of the meeting, I asked the spokesman for the unions:

> Am I to understand that your answer to Senator Kennedy's question is no, you will not accept the recommendations of the Fahy Panel?

The answer was:

> It is definitely no. We will not accept those recommendations.

On April 28, 1967, President Johnson sent Congress a proposal to extend the no-strike, no-lockout deferment for a period of 47 additional days. At the same time, he indicated that he would submit proposed legislation to Congress which, in his own words, "will protect the public interest in this case."

As we understand it, the proposal sent to Congress is the proposal under discussion here today, that is, House Joint Resolution 559. Congressional hearings began on the President's proposal on May 9.

I will have more to say later in this statement as to the feelings of the railroad industry toward the President's proposal. At the moment there are certain things I wish to discuss because I believe they are of great importance in your deliberations concerning the recommendations of Emergency Board No. 169.

I think you want to know whether these recommendations were adequate, whether they were fair to the employees, to the public, to the railroad industry, and whether such recommendations were supported by the record that was put before this Emergency Board by the parties.

In this respect, I would like to make it clear, perhaps for the first time, that the recommendations of Emergency Board 169 followed almost precisely what the unions had argued for. The carriers did not get what they advocated. But in all of my experience, I have never known of an Emergency Board appointed by the President of the United States under section 10 of the Railway Labor Act to recommend exactly what counsel for the unions argued they should include in their recommendations.

In this respect, a great deal has been said about arbitration, mediation with finality, or whatever enlightened and knowledgeable people might recommend in an effort to prevent a national disaster. I am not going to deal with semantics. Call it anything you want. I am simply trying to carry out our responsibility to our principals, to our employees, and to the public.

But I do want to point out that at page 34 of the closing argument for the unions submitted to Emergency Board No. 169 in brief form, the unions said:

> Although it may require several years to fully correct these inequities, the evidence is more than ample to warrant an immediate down payment. In the case of shop mechanics to close the demonstrated differentials of the art of 40 to 50 cents—

And it is quite important that you keep that clearly in mind, 40 to 50 cents—

> might require 3 or 4 years, but the evidence fully justifies a down payment of 13 or 14 cents at once and the Board should recommend.

I would like to ask you to consider carefully this statement, which was before the Ginsburg Board, in the light of the testimony of Mr. Fox, the chief spokesman for the unions, before the Senate committee. Mr. Fox said:

> Our last offer is 25 cents to correct the differential, 12½ cents on January 1, 1967, and 12½ cents on January 1, 1968.

In other words, 25 cents in less than a year, although counsel urged upon the Ginsburg Board that there should be a down payment of 13 or 14 cents.

The brief of the union goes on:

> The precise extent of the gap admittedly is in dispute because of differences between the parties over skill comparison and cannot be determined with competence by this or any other Emergency Board. Only the parties can determine this, and then only after objective inquiry and intense negotiations. The ultimate objective should be to agree on a set of rates for railroad shop mechanics consistent in terms of their skill, their worth and their responsibilities with rates in the same occupations in comparable employment outside the railroad industry.

I want to read what I consider to be the most important aspect of this dispute. I wish you now to consider it, and I ask that with the greatest respect in light of what has been said to you and in the light of this record. I also urge that you keep in mind that the only semblance of due process in this case was before Emergency Board No. 169.

There the parties were permitted to present witnesses, exhibits, to argue their case, and they were given all the rights, moral and constitutional, encompassed in the phrase "due process."

Here is what the unions said, and again I quote:

> In their efforts to reach agreement on the ultimate goal of such wage rationalization, the parties can invoke the good offices of the Department of Labor and other Federal agencies to furnish occupational and labor market information needed in their determination of occupational and job comparability. If in the final analysis they cannot agree on the ultimate degree of comparability, they should then have recourse to arbitration of the unresolved issues.
>
> However, uncertainties to the extent of future adjustments that will ultimately be justified by occupational or wage comparisons obviously does not preclude and should not stand in the way of an immediate and significant beginning.

The first mention of the word arbitration is on the part of the union.

They were bitterly critical of the Ginsburg Report but it contained exactly what the unions urged this Emergency Board to recommend. And then they rejected the report in its entirety.

I want to read, if I may, a few things that the Emergency Board had to say about the wage adjustments they had recommended:

> During the 3-year period from December 1963 through December 1966, the average straight time hourly earnings of the shop craft employees increased from $2.62 per hour to $2.97 per hour, with an average annual increase of 3.4 percent. During that period the average straight time hourly earnings of production workers in durable goods increased from $2.59 to $2.81 an hour, with an annual increase of 2.8 percent. To us, this record means that the real earnings of the shopcraft employees have increased during this period at a rate greater than that for workers generally in the economy.

The recommendations of this Board were made on the record that was submitted to the Board by the parties, and it was a most comprehensive record. This Board did not reach up in the air and get an amount simply in an effort to impose a settlement on one or the other of the parties.

They did support it, and they supported it by the record that was made by the parties.

For their reward for their diligence and conscientious effort to help the parties do something that they were obviously not big enough to do themselves—because we did fail—they were bitterly criticized by the unions.

Nevertheless, this Board did give us a recommendation that should have been acceptable, that should and would have corrected any inequity in our industry, regardless of what those inequities may have been. They recommended that this be done in the same manner that the unions urged it be done.

This so-called compression, that is, the inequity—I might term it an internal inequity—between the unskilled, the partially skilled, and the skilled, is something that is due entirely to the fact that for 30 years the unions have insisted that all wage settlements be what we call horizontal settlements, that is, cents per hour increases.

We knew and they knew that if we continued the horizontal increases rather than percentage increases, the end result was inevitable, that there would be a compression in the basic rates as between the unskilled and the skilled employees.

On the basis of the record in that respect, the Emergency Board said:

> For 30 years the unions have insisted on uniform cents per hour wage increases for all shopcraft employees. The result has been to compress severly the wage differentials between skilled and unskilled shopcraft employees, and to widen the wage disparity between skilled workers in railroad shops and skilled workers in other industries. Both parties agree that there is a serious wage compression, and that it cannot be corrected in a single step.

We do not question that. We realize that the persistence on the part of the unions in urging the across-the-board cents per hour increases brought about compression. We are willing to work that out. But it can't be done over night, and the union did not argue that it be done over night.

They realize it takes time to correct inequities of that nature.

The record in this case discloses things that are absolutely amazing to people who have engaged in the field, have been engaged in the field, of collective bargaining for many years. It reveals a situation where the unions argue for certain things and the Board recommended the exact things the unions argued for, and then the unions rejected those recommendations in their entirety.

As a matter of fact, they would not even discuss them.

Gentlemen, there are many terms, many connotations to the phrase "good faith collective bargaining". If that is good faith bargaining, I have just about had all I want of that kind of bargaining.

It does not bear the slightest resemblance to bargaining, and it does not even remotely represent good faith.

Turning now to the President's proposal now identified as House Joint Resolution 559, when we first had knowledge of what the President had proposed we immediately issued a press release. It is brief. With your permission, Mr. Chairman, I would like to read it into the record.

It is very brief.

The CHAIRMAN. Very well.

Mr. WOLFE (reading):

> The President's proposal will settle this particular case, but it will not prevent a similar crisis in the railroad industry any time a union refuses to bargain in good faith. We still think the law should be amended to prevent crises like this one from arising in the future, and we will vigorously pursue our efforts to attain this essential objective which obviously has great public support. However, we will not oppose the proposal of the President in this case.

In this respect, gentlemen, the railroad industry, as you all are aware, had finally, long last, reached the conclusion that section 10 of the Railway Labor Act was no longer producing the result that was intended when the Railway Labor Act was amended.

We felt, and we urged, that section 10 be amended so that some kind of finality is assured and thus prevent a return to Congress under

emergency conditions when that can be avoided without depriving the employees, their unions, or the railroads, for that matter, any transportation industry, of any of their fundamental rights.

When you go to arbitration, it has been my experience, and I have served as an arbitrator on a number of occasions and participated in arbitration proceedings in many more cases, you almost invariably get exactly what you are entitled to, no more and no less.

I have never met a member of a Presidential Emergency Board or of an Arbitration Board who did not have a background favorable to labor. I have never met one of those gentlemen who did not conscientiously try to do his duty on the basis of the record.

When railroad management, or any other management, is convinced that disputes such as we have, so-called major disputes under the Railway Labor Act, should be submitted to arbitration in an effort to avoid a national catastrophe, that employer is making a great sacrifice, taking a great gamble, a gamble that undoubtedly does involve the stockholders, those people who have invested their money in the industry, the public—because, after all, the public pays the bill—and it is a gamble.

But we have definitely reached the conclusion that if we are going to avoid these ad hoc emergency propositions such as we have right now, we would be better off to submit to arbitration. It is the American way of disposing of disputes.

If the parties are not big enough or not intelligent enough to settle their own troubles, which, of course, is the right way to do it, if they are not going to do it that way then I think, especially in the transportation industries, the time has come when we are going to have to look at our hole card and see what we are going to do about it.

As to the President's proposal, it will solve this dispute. Being, I hope, a realist, I am convinced that there isn't enough time for Congress to consider thoroughly, as it should, any permanent remedy. I don't think it can be done in time to avoid a strike of the railroad industry which, in the opinion of every person with whom I have talked, cannot be tolerated, especially at this time, though the President's proposal will avoid a strike over this dispute. It will give the parties another chance to talk and try to dispose of it. But it also will permit those discussions without having a shotgun aimed at you, or perhaps I better say without having a shotgun aimed at the public. That is exactly what a strike would do.

I don't think there is anything worse that could happen to the railroad industry, or to the public, than to have a serious railroad strike at this time.

We have approached this I think in a realistic way. Some people have the idea that there are no pressures on the industry. Nothing could be more erroneous.

Keep in mind that if we have a national railroad strike, the railroads are going to pay every employee who is not working, and we have roughly 630,000 of them, something in excess of $10 a day for every day they are not working. That applies to the strikers as well as those who refuse to cross the picket line because they are in sympathy with the strike, or because it is the traditional thing to do, or simply because they don't want to work.

That will cost the railroads over $6 million a day.

That is quite a bit of pressure, I think.

The railroad industry is the only industry that finances the strikes against the industry.

There is another little matter of expense. Our fixed charges amount to about $6 million a day. So when you take the $6 million fixed charges, and the $6 million strike benefits that the railroads have to pay to strikers and the others that don't work, we have $12 million a day.

Some of those people, unwisely, I think, who are advocating more pressures certainly do not understand exactly what the situation is or I think they are somewhat unfair. I can't think of much more pressure than $12 million a day, which is exactly what we have.

It has also been said that the only difference between us is money, that there is no principle involved. When I say among us, I mean the disputing parties.

That is wrong. There are at least two principles of vital importance to the continuance of free collective bargaining in this industry.

At this point I want to say that freedom to me never meant license. The freedom of collective bargaining, if it is to endure, must be a freedom that is exercised or at least one of the most important criteria completely disappears. That is good faith bargaining. Bargaining in itself is not meaningful unless there is good faith. If either party fails to carry out its duty to bargain in good faith, then if they sacrifice that freedom it is their own responsibility.

And, gentlemen, I think that is exactly what we have here.

There is another principle and we think it is of great importance to this industry: That is the principle that there must be come respect for the recommendations of emergency boards.

When the emergency board procedure was first made a part of the Railway Labor Act, it was on the basis of an agreement between the railroads of this Nation and the standard railway labor unions. At that time there was no question in anyone's mind.

The congressional record is so absolutely clear that it is not debated. The recommendations of emergency boards were intended to be accepted. It was intended that the force of public opinion would compel the parties to accept those recommendations.

If it developed later that the equities were not completely served, the parties have a perfect right in the future to serve another notice and to bargain again.

It generally develops in our country, and I hope it will always remain that way, that inequities generally disappear and the equities are preserved. If it doesn't continue that way, then I think it will be too bad for our country.

I am not going to take up too much of your time, but there is one thing that has disturbed me greatly as chairman and chief spokesman for the railroad industry. This is the charges that the railroads have not bargained in good faith.

We have been assisted in our endeavors almost from the beginning by Mr. Frank O'Neill, Chairman of the National Mediation Board, and later by Secretary of Labor Wirtz, and Under Secretary of Labor James Reynolds.

From time to time I have asked is there anything I have done that I shouldn't have done. The answer has been invariably "No."

Is there any position we have taken that we should not have taken? The answer is "No."

Have we cooperated?

The answer has always been "Yes, you have cooperated."

And I think the President of the United States made that statement just a few days ago.

If there is any question about who bargained in good faith and who failed to bargain in good faith, I think it would be well to ask the three gentlemen I have just mentioned, or one of them: Did the carriers bargain in good faith? Was there any evidence that we were stalling, that we were trying to create an emergency and thus force Congress into the undesirable, unpleasant position that you are now in?

I think you would find that the answer would be that the carriers did bargain in good faith. I will say to you now that I accept that verdict. Whatever those three gentlemen will say to you I will accept as being factually correct as a true statement of what occurred.

I will not accept an indictment which is absolutely untrue as to our not bargaining in good faith. That is exactly what these irresponsible charges made by certain representatives of the unions amount to. They just are not true and that is all there is to it.

Leaving the President's proposal and the chronology of the present dispute for a moment to talk very briefly about the Railway Labor Act and the possibility or desirability of giving profound consideration to some change, whatever it may be, which will avoid a recurrence of this incident and the possibility of another crisis or crises that cannot do our country any good, and certainly could do vast harm, there was a book written in 1955 by a Mr. Lack, entitled "Experience Under Railway Labor Legislation," Columbia Press, 1955. Among other things, he said, "In practice, however, it has worked out that these recommendations are binding on the railroads while they serve only as a floor for further negotiations by the unions."

That is what I mentioned a few minutes ago. So far as the railroads are concerned, what we have now is tantamount to compulsory arbitration. What the unions have is nothing but a recommendation to be scorned or cast aside, and it thus creates a new floor from which to work up.

Not too many years ago when Arthur Goldberg was Secretary of Labor, we had an Emergency Board that was going to cost the railway industry a couple hundred million dollars a year.

By the way, I want to say that every 1-percent increase in wages in the railroad industry—and I am speaking for all the employees—costs $45 million. Every 1-cent increase cost $15 million.

That is quite a bit of money. It is not like a small industry where 1 cent an hour can be brushed off or passed on to the consumer, and the consumer may hardly notice it. But a regulated industry, such as this industry, when we took on the 5-percent across the board for everyone and hoped to establish a pattern, we knew that we were taking on $250 million a year.

When we add to it the 2 cents an hour we pay for supplemental annuities, of which the chairman is very familiar, and I appeared before him on that, and the improvement in the third week vacation—all of those things put us up to $300 million a year for the year 1967.

Anyway, that Emergency Board recommendation which we felt was wrong—we felt it could hardly be accpted without almost ruinous results—caused me to go see Arthur Goldberg. Sometimes I wish a had not gone over there.

He said to me. "Mr. Wolfe, it would be intolerable for the railroads to refuse to accept these recommendations." Those were his exact words. I will never forget them.

The unfortunate part of it was that I knew it would be intolerable. I knew pretty well what the outcome would be, too. I knew it wouldn't be very pleasant for those of us on management side in the railroad industry. So we accepted it. We tightened our belts a little bit. We were prevented from building more cars that the public was screaming for. Perhaps our maintenance wasn't kept up to the standards they should have been. But if you do not have money, there are certain things you can't do.

But that is exactly where we stand now so far as section 10 of the Railway Labor Act is concerned. We have arbitration for the management. We have nothing but a self-serving new floor for the union. Congress ought to do something about it.

What you do, of course, must be decided on the basis of your own wisdom, your own experience, and your admitted conscientious efforts to protect our country.

It would be presumptious for me to tell you what I think you should do, and I don't intend to do it.

There is another thing, and that is the question I hear so often about equality of bargaining, that the unions have the right to strike; the railroads have the right to lock out.

Well, there isn't any such right at all. The railroads have a public duty under the Transportation Act to serve the public. We can't lock out our employees. Whether it is lawful or not is highly questionable but we know it is not practical.

On the question of law, there was a case in Oregon a few years ago where there was a serious strike of an industry, Montgomery Ward, and the railroads did not use officer crews to go in there and serve the plant. A suit was brought against the railroad and the railroad has to pay damages. So there is no equality of bargaining.

Any thought that the railroads can lock its employees out is not even wishful thinking because in the first place we wouldn't want to do it even if we had the legal right to do it. That isn't the ay to conduct collective bargaining. So there is no equality of bargaining.

There is no right, legal, moral or practical right, to lock railroad employees out. It just isn't here.

By the way, yesterday a statement was read into the Senate record by Mr. Schoene for Mr. Leighty. He dealt with my statement in regard to the so-called equality of bargaining, and particularly my statement that there just was not the right to lock out in the field of resort to self-help. So far as the railroad industry is concern, it just isn't there.

I want to comment on that because it is quite possible that the same thing may be said a little later.

Mr. Leighty intimated that in my testimony I had stated that if there was some kind of partial seizure or partial operation on the basis of their offer to handle certain essential materials that the railroads would lock the employees out, nothing could be further from the truth.

If Congress passes legislation, which I think would be unwise and I would argue against it before you, if you should pass such legislation whatever Congress decides the railroads will cooperate, and there will be no lockouts of any kind, or anything else to interfere with the conduct of our war in Vietnam or the health and welfare of our Nation.

We don't do business that way. We never have and we don't propose to. You will find the railroads will cooperate.

I am going to close, Mr. Chairman and gentlemen, with this very brief statement.

We believe that if House Joint Resolution 559 is enacted into law, that it will solve this particular problem. It provides for further discussions, further negotiations, with the help of another Panel. Of course, we have about run out of boards and panels, but we will sit down and do our best to try to settle this problem in negotiations with the help of that Panel.

We would anticipate that the President will select dedicated, knowledgeable men to serve on that Panel. We hope that they will be helpful and that their objective may be attained.

If there is failure to reach an agreement which, of course, would be the ideal solution, then the recommendations of that Panel will become effective for a stated period of time, not to go beyond January 1, 1969.

That means that isn't the end of the whole dispute. It simply means that during that period whatever the panel thinks is proper would be effective. At the end of the period, if either party feels that justice had not been done, then that party, under the Railway Labor Act, which remains untouched, may serve a section 6 notice and then they will again have their day in court.

I do not consider that compulsory arbitration. I think it is an expedient. I think you have to be rather naive not to think so. But I think it is a worthwhile expedient when one considers what the alternatives are.

It is for that reason that the railroads of this Nation do support what the President has proposed, and we believe that the alternatives that have been suggested are not feasible, not workable, will not solve this problem and, therefore, should be rejected.

I thank you very much, Mr. Chairman and gentlemen of the committee.

The CHAIRMAN. Thank you, Mr. Wolfe.

I will defer all but one or two questions until the end. I would like to ask you, is there any collective bargaining going on at the present?

Mr. WOLFE. No, Mr. Chairman; there is not.

The CHAIRMAN. When was the last meeting?

Mr. WOLFE. April 25.

The CHAIRMAN. How long did you meet then?

Mr. WOLFE. How long did that meeting last?

The CHAIRMAN. Yes.

Mr. WOLFE. It did not last very long. I referred to it in my testimony.

The CHAIRMAN. Five minutes, 10 minutes, a half hour?

Mr. WOLFE. About a half hour, I would say.

The CHAIRMAN. Did you get to talk over any issues?

Mr. WOLFE. Yes, sir. We talked over—of course, the issues are rather finely drawn. It isn't one of these real complex cases where you have a great many working rules involved.

We came to the table and there it was, the unions stating flatly and positively that the Fahy recommendations for across-the-board settlement would not be accepted by them and there was not very much else to talk about.

The CHAIRMAN. Have they made any counterproposals since that time?

Mr. WOLFE. Not to me; no, sir.

The CHAIRMAN. Have they made any to the railroads, to your knowledge?

Mr. WOLFE. They have made no counterproposals to the railroads at all.

The CHAIRMAN. That certainly is not what I understood. I understood that there was a proposal. Maybe it was discussed with the Labor Department. We will have to ask them to come back again.

Mr. WOLFE. I know nothing. I can say this, that the last proposition we had from the unions was the proposition referred to by Mr. Fox in his testimony before the Senate committee last Thursday in answer to a direct question from a member of that committee as to what the last proposal of the unions was. He stated what that offer was and it was read into the record.

The CHAIRMAN. Was that presented to you?

Mr. WOLFE. Yes, quite early in the game, 6½ percent for the first year, 5 percent for the second year, 12½ cents retroactive to January 1, 1967, and another 12½ cents January 1, 1968.

The CHAIRMAN. And there has not been a subsequent proposal of 5, 5, and 5 percent and 5, 5, and 5 cents?

Mr. WOLFE. There has been no proposal to me. Mr. Fox stated before the Senate just a few days ago, that the last proposal, and it is right in the record, is the proposal that I referred to.

The CHAIRMAN. We will have to have the Labor Department back, then, because this had to be cleared up. That is the trouble about trying to find out without everybody being together. I think the next time we will have to have all of you in here together before we get through and find out who and what is making what proposal.

You agreed, I believe, that there was an inequity in some of the craft unions about the wages in certain areas in what is being paid by the railroads?

Mr. WOLFE. Yes, Mr. Chairman. I believe the record conclusively proves that the cents per hour increases had the effect of bringing about unjustifiably high rates for certain classes and lower rates for others.

There are intermediate rates that are high enough, and perhaps not too high. This same question has been before at least two Emergency Boards. Both decided that those inequities could not be measured at all, except by a job study. I agree.

The CHAIRMAN. I have a lot of figures here from all over the United States. I am not going to take the time to show that there are differentials. You have said that in your testimony, that there were differentials.

Mr. WOLFE. Absolutely, and I repeat it.

The CHAIRMAN. That is, in the skilled workers.

I believe also that you felt that this should be closed up slowly to conform with the different areas of the United States.

Mr. WOLFE. I want to say it exactly the way I said it before, Mr. Chairman.

The CHAIRMAN. All right, go ahead.

Mr. WOLFE. Wherever there are inequities they ought to be corrected, whether they are too high or too low. If a rate is too high we are perfectly willing to establish an incumbent rate so that the individual who is on the job will not lose.

But if the rate is too high, a new entrant should accept the job at a rate that is commensurate with his duties and responsibilities.

We have told everyone we are willing to do that. That means that if they are underpaid now based on their skills and responsibilities, then over a reasonable period of years it would be corrected.

But the person who is overpaid, we do not expect to take anything away from. Only a new employee would come in at the proper rate. I can't figure out how you could be more fair.

The CHAIRMAN. You said you have not put this into certain amounts but you are willing to close this gap over a period of years. You don't say how many years or how it is going to be done.

Mr. WOLFE. I don't believe, Mr. Chairman, that that can be done and permanently correct the inequities without a determination as to relative skills.

The CHAIRMAN. Now I want to ask you about this.

Today there is a meeting between some of the Government agencies and some of the representatives of the unions as to whether they can work out a union proposal to carry defense and health cargo without disrupting too much the defense effort and also the health of the Nation.

Would you care to comment on this proposal?

Mr. WOLFE. I will, to the best of my ability.

I have been away from operating for a long, long time. I was an operating officer at one time.

Yesterday, Mr. Tom Rice, president of the Atlantic Coast Line, testified before the Senate committee. Today, Mr. Grenshaw, president of the Pennsylvania Railroad, will testify, and later, Mr. Lambritt, operating vice president of the Southern Pacific, will also testify before the Senate committee.

I read the testimony of Mr. Rice, the transcript, early this morning. I think he, in a most persuasive and clear manner, described all those difficulties.

The CHAIRMAN. Would you give us the answer you gave to the Senate?

Mr. WOLFE. Yes; I will. I do not think it is feasible. I think that in the first place the delays that could not possibly be avoided would completely defeat the plan. I do not think it could be worked out at all except under governmental supervision.

There would have to be someone to decide what is essential and what is not essential. There are operating problems that, in my opinion, defy a solution.

In the first place, there is the movement of empties, there is the congested yard, the greater amount of switching to switch out a car that is loaded with essential material from cars that are nonessential.

There is the question of the interchanging of cars from one railroad to another, and the inspection of commodities at those points to make a judgment as to the essential and the nonessential.

In my opinion, it would take months to solve those things, and all during that period our people would suffer, our war effort would be seriously damaged, and then, in the final analysis, you would still have almost complete destruction of the vitality of our production in the country, with millions of innocent people suffering, including the wives and families of our employees with whom we have made agreements. We have made agreements with 13 unions representing roughly 74 percent of our employees.

The CHAIRMAN. I don't know whether I understood you or not. You said that this could be worked out under Government supervision?

Mr. WOLFE. I said I don't think it could be worked out at all unless it was Government supervised, and then it would take months and months to work it out so it would be even halfway workable. Even then you would have to draft practically all the Government workers to supervise the thing.

The CHAIRMAN. Is that the answer you gave to the Senate yesterday?

Mr. WOLFE. Substantially so; yes, sir.

The CHAIRMAN. Mr. Friedel?

Mr. FRIEDEL. Mr. Wolfe, you said in your statement that if we pass this bill and try to dispense with this important matter, then you would be able to continue your talks. Why try to force Congress to pass legislation when you could be trying to bargain right now, trying to settle the matter now?

Mr. WOLFE. I do not believe, Congressman Friedel, that we are going to make an agreement without some help. I think and I believe that those who have been very closely associated with our problem, and I refer now to the Department of Labor and the National Mediation Board, share my views in that respect.

I believe Senator Morse, who is very knowledgeable in this field, also shares our view. I think if this resolution becomes law, we might have a different situation.

Mr. FRIEDEL. Mr. Wolfe, I want to make one thing clear: that I am not trying to take sides at the present time. The questions I ask you I will also ask the unions.

You made another statement that 74 percent of your employees have now settled. That means 26 percent have not. Are the 26 percent the skilled craftsmen?

Mr. WOLFE. The skilled craftsmen, Congressman Friedel, takes in quite a group. There are six unions here representing about 137,000 employees. Roughly 40,000 of those people are not skilled at all.

Mr. FRIEDEL. They are not what?

Mr. WOLFE. They are not skilled at all. They are the shop laborers, the helpers, the trainees, the apprentices who are seeking skills. They don't have them now. Then there are others who are intermediate; that is, they have some skills but we do not believe that the skill requirements are comparable to our higher class mechanics or to journeymen in outside industry.

That is one of our big problems. But to get the idea that we are dealing with 137,000 skilled employees is just not right.

Mr. FRIEDEL. I did not say that. I said you said that you have agreed with 74 percent of your employees. There is no problem there. That leaves 26 percent in the dispute. I thought they were the skilled and

unskilled mechanics or electricians that you have not come to an agreement with. How far are you apart in that 24 or 26 percent?

Mr. WOLFE. There are two unions of any consequence that have not settled. We have a few small unions that haven't. The main reason, I believe, is that we just haven't gotten to them. It is not hurting them too badly because the effective date of the wage increase will be January 1. We are going to set dates for discussions with them. We have written them.

But the conductors and the engineers have not settled. I think we will make an agreement with the engineers. I am almost certain we will. As to the conductors, we are in dispute.

On the groups that we have settled with, we have settled with the clerks, the largest union we deal with. They have thousands upon thousands of highly skilled employees, the computer operators, the high-class secretaries and stenographers, the rate clerks, and so forth.

Mr. FRIEDEL. I think we are getting a little far afield here. We are led to believe that you are not too far apart with this other 26 percent. I don't know what they base it on. I am trying to find out from you, are you too far apart, or can you get together and settle this thing so the country can be at ease without forcing Congress to pass legislation that we might regret, you might regret, and the unions might regret?

Mr. WOLFE. You speak now of the shopcraft unions, do you?

Mr. FRIEDEL. Yes.

Mr. WOLFE. The best I can do is to give you the same answer I gave the chairman: that I do not think we can make an agreement unless we have some pretty expert assistance. I think that assistance can best come from the panel that is referred to in House Joint Resolution 559.

Mr. FRIEDEL. We have 27 days and we are losing minutes now. Why aren't you trying right now to get together and settle this thing?

Mr. WOLFE. There comes a time, Mr. Congressman, when your efforts are exhausted. I think that is exactly where we stand now without a lot of pressure from somebody.

Mr. FRIEDEL. Thank you.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. There is one thing that is disturbing the committee, and apparently it is not being brought out. I have been trying to bring it to a head, Mr. Wolfe; that is, what the issues are and where you are.

Let me take these issues one by one. Let's find out where we are on the issues. Let's take them. There were eight proposals by labor, is that correct, originally? Let me go through all eight of them.

The paid lunch period was withdrawn; is that correct?

Mr. WOLFE. The what?

Mr. SPRINGER. The paid lunch period was withdrawn.

Mr. WOLFE. Yes.

Mr. SPRINGER. The pay for jury duty is next. Is that still in dispute?

Mr. WOLFE. I don't think it is.

Mr. SPRINGER. The Board didn't make a recommendation on this at all.

Mr. WOLFE. The Board rejected all of the carriers' proposals, every one of them, and rejected everything——

Mr. SPRINGER. Wait a minute. Stay with these one by one. We will never get anyplace if we take generalities.

The pay for jury duty, is that in dispute?

Mr. WOLFE. It is not.

Mr. SPRINGER. Holidays guaranteed numbered nine. Is that in dispute?

Mr. WOLFE. It was the last time we talked.

Mr. SPRINGER. All right, that one is in dispute.

Vacations. That is not in dispute; is that right? The Board recommended that you accept that?

Mr. WOLFE. We had offered that.

Mr. SPRINGER. You offered it?

Mr. WOLFE. We had offered that before we even went into mediation.

Mr. SPRINGER. That is not in dispute?

Mr. WOLFE. I do not think it is.

Mr. SPRINGER. The shift differentials, 18 cents per hour for 4 to 12 and 25 cents per hour from mdnight to 8 in the morning; is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Overtime and double time; is that in dispute?

Mr. WOLFE. No, sir; it is not.

Mr. SPRINGER. Is the cost-of-living increase for each quarter in dispute?

Mr. WOLFE. I do not think it is.

Mr. SPRINGER. Then I take it we have removed practically all the things they have been talking about except the basic time rate increase; is that right?

Mr. WOLFE. And the adjustment of the so-called inequities.

Mr. SPRINGER. Let me see if I can develop this point. Then I want to get over to what you have offered. Is this the difference: You have offered 5 percent or 6 percent?

Mr. WOLFE. We offered originally 5 percent. That is what the Mediation Board suggested and we accepted it.

Mr. SPRINGER. What about the second Board?

Mr. WOLFE. They recommended 5 percent and we accepted.

Mr. SPRINGER. Was this 5, 5, and 5?

Mr. WOLFE. The second Board recommended that. That is the Emergency Board.

Mr. SPRINGER. They recommended 5 or 6 percent?

Mr. WOLFE. Five percent.

Mr. SPRINGER. Five percent and 5–5–5?

Mr. WOLFE. Right. That is Emergency Board 169.

Mr. SPRINGER. That is the second Board; is that correct?

Mr. WOLFE. I want to make the record absolutely clear. Emergency Board 169, the Ginsburg Board——

Mr. SPRINGER. I have that report before me.

Mr. WOLFE (continuing). Made a recommendation of 5 percent for the year 1967, across the board, and a down payment to correct the inequity which would have to be agreed upon.

Mr. SPRINGER. And that was the recommended job evaluation, 120 days in escrow; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Did you agree on the escrow?

Mr. WOLFE. No.

Mr. SPRINGER. This is a point of dispute, then?

Mr. WOLFE. Yes.

Mr. SPRINGER. The second Board didn't do anything about job evaluation at all, did they?

Mr. WOLFE. The second Board recommended against job evaluation. That is the Fahy Board.

Mr. SPRINGER. Then I take it that the difference between what your real dispute is, between you and labor at this point, is the difference between 5 percent and 5–5–5, and 5 percent, 12½ cents for the first year, 5-precent increase for the second year and 12½ cents; is that correct?

Mr. WOLFE. No; that is not correct.

Mr. SPRINGER. Will you tell us in your own words, as simply as possible, what the dispute is on this point?

Mr. WOLFE. First, I will give you the carriers' position. That is that it should be 5 percent for 1967, although in an effort to make an agreement we accepted what the second Board, the Fahy Panel, recommended—6 percent for 18 months. That is from January 1, 1967 to July 1, 1968.

Mr. SPRINGER. Plus 5, 5, and 5?

Mr. WOLFE. We did not agree to the 5, 5, and 5.

Mr. SPRINGER. Then see if what labor proposed is correct and let me state it: Five percent the first year, plus 12½ cents?

Mr. WOLFE. Six and one-half percent the first year plus 12½ cents effective January 1, 1967.

Mr. SPRINGER. And the second year?

Mr. WOLFE. Five percent effective January 1, 1968, and another 12½ cents effective January 1.

Mr. SPRINGER. So it is 6½ percent, 12½ cents; in 1968; 5 percent and 12½ cents?

Mr. WOLFE. Correct.

Mr. SPRINGER. How much does that make, if you put all of that together, their proposal?

Mr. WOLFE. In percent?

Mr. SPRINGER. Yes.

Mr. WOLFE. About 20 percent; about what they asked for originally.

Mr. SPRINGER. This would be about their original proposal of a 20-percent increase; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. All right. Now I think we have before us what their proposals are and where they stand. Now I would like to go, if I could, to this point: Subsequently, in June 1966, various proposals were served by individual carriers on the organizations. Among the changes requested were: First, a revision of the vacation agreement.

Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Second, the elimination of certain craft jurisdictional barriers. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Third, a revision of the rules governing the work of car inspectors. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Fourth, a greater freedom to institute technological, operational, and organizational changes. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Fifth, the establishment of entrance rates. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Sixth, compulsory retirement age limits?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Seventh, the revision of the 40-hour workweek rule. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Eighth, the establishment of a rule to prohibit duplicate holiday payment. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. And ninth, the force reduction privilege. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Tenth, the rule providing for common-law agreements on breach of law contracts. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. So that which you have served upon them is not in dispute but has been settled; is that correct?

Mr. WOLFE. Let me explain it this way, because I want the record to be correct: If there is a strike, if there is no legislation passed and there is a strike, then every notice that the union served upon the railroads, and every demand that the railroads served upon the unions are before us.

But so far as our negotiations are concerned and the posture of the dispute right at the moment, it is as you have placed it in the record through your interrogation of me.

Mr. SPRINGER. May I repeat: The real difference, then, as I understand it, and I want to be sure this committee gets this clear, Mr. Wolfe, is apparently the difference between what you are willing to accept as the recommendation of the second Board of 6 percent for 18 months and 5, 5, and 5—or did you accept it?

Mr. WOLFE. We did not accept it.

Mr. SPRINGER. So that hasn't been accepted?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Your only proposal, then, at the present time is 5 percent; is that correct?

Mr. WOLFE. No.

Mr. SPRINGER. Give us what you are willing to accept.

Mr. WOLFE. We are willing to accept the 6 percent for an 18-month period. We are willing to make a down payment on the so-called inequities. That amount of down payment is to be agreed upon.

Mr. SPRINGER. This is the first Board's recommendation of job evaluation, then, 120 days and money in escrow?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Plus 6 percent, did you say?

Mr. WOLFE. Six percent. We were willing to accept.

Mr. SPRINGER. Six percent for 18 months plus job evaluation, 120 days in escrow.

Mr. WOLFE. But in the meantime, we would make a down payment to be agreed upon to partially correct the inequities.

Mr. SPRINGER. Let me ask you this: Is there any great dispute about how much will go into escrow? Is there any great dispute about how much that ought to be between you and labor?

Mr. WOLFE. Well, there is this dispute, Mr. Springer: The unions wouldn't talk about it.

Mr. SPRINGER. Do you mean they wouldn't discuss it?

Mr. WOLFE. They wouldn't discuss it because it contemplated subsequent job evaluation.

Mr. SPRINGER. We know where you stand. We know what you have offered. This is what your position officially is today.

Now I want to see if I can get what you understand labor's position is today. Let me state it and you tell me if it is yes or no, and if it isn't, will you modify it?

That is, they are talking about 6½ percent the first year.

Mr. WOLFE. Right.

Mr. SPRINGER. Plus 12½ cents for 1967, the first year.

Mr. WOLFE. Right.

Mr. SPRINGER. For 1968, 5 percent and 12½ cents.

Mr. WOLFE. That is absolutely correct.

Mr. SPRINGER. You say that those four proposals would mean an increase to them of approximately 20 percent across the board. Am I stating this correctly?

Mr. WOLFE. You are.

Mr. SPRINGER. That is what I wanted to do. I wanted to be sure this committee understands what the dispute is all about. I think we have it clear on the record from management as to what you think the matter in dispute is.

When labor comes in, maybe we can find out what they have to say about it. At least the committee understands what this is all about. We have all of these things being thrown at us every day. I can't find out where anybody has stood on this until you said where you stood.

Mr. BROWN. Is there a dispute between the unions and management as to the amount of time that this contract should be written for?

Mr. WOLFE. Yes. We originally insisted on a 1-year contract. But we have modified that to this extent: We would go for the 6 percent recommended by the Fahy Board for 18 months.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Wolfe, continuing just a little bit, what did the Boards recommend as a suggested settlement of the areas where you are apart?

Mr. WOLFE. The Emergency Board recommended 5 percent. That is the established pattern for the year 1967 with the reopening clause as of January 1, 1968. For the inequities, whether they be overpaid or underpaid inequities, they recommended that an amount be agreed upon, a so-called downpayment, and held in escrow pending a job evaluation to determine exactly what the employees were entitled to or what management might be entitled to, with the understanding that if the job evaluation revealed certain classes being overpaid, there would be no reduction in pay insofar as the present incumbent is concerned. It is what we sometimes term a red circling.

They also recommended favorably on the vacation matter, which we had already tentatively agreed upon. We accepted.

The so-called Fahy Panel cast aside job evaluation and recommended 6 percent to be effective January 1, 1967, across the board for everyone, and that increase to remain effective until July 1, 1968.

The Fahy Panel also recommended a 5-cent-an-hour inequity adjustment effective April 1, 1967; a second 5 cents effective October 1, 1967; and a third 5 cents effective April 1, 1968.

Mr. ROGERS. Was this acceptable to the railroads or not?

Mr. WOLFE. The 6 percent across the board was; the 5, 5, and 5 was not, because we thought that it would only further disturb an already badly disturbed wage structure and would not correct anything. It would, in fact, cause many other wage behavior disturbances with the 24 unions with which we deal.

Mr. ROGERS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Wolfe, do you feel that this committee of the Congress of the United States should sit here, in effect, as a mediation board for a dispute between management and labor?

Mr. WOLFE. No, sir, Mr. Devine; I do not think you should act as a mediation board.

Mr. DEVINE. This is the third time this has occurred in the last 4 years, if I am not mistaken. There must be some void or something lacking in the Railway Labor Act that would cause this situation to develop time and again, wouldn't you say?

Mr. WOLFE. There definitely is something wrong. It is unfortunate, although Congress predicted it might happen when the act was last amended, because it was clearly stated, and it is in the Congressional Record, that if section 10, the Emergency Board procedure, did not correct the situation, Congress would have to take more drastic action. That is in the Congressional Record.

Mr. DEVINE. Wouldn't you agree that if this type of a situation continues to develop each year when one or the other of the parties, or both of the parties, fail to collectively bargain in good faith, we may be put into the position one day when we will be forced to pass, perhaps, restrictive legislation on both parties in order to keep these little percentages and so forth out of the committee and let them be settled by the parties?

Mr. WOLFE. Yes. I think Congress eventually is going to have to give this very careful study. I think so far as the Emergency Board procedures are concerned there has been a complete breakdown.

Mr. DEVINE. To use your term, I think you have suggested it, perhaps the labor interests have used the recommendations not only of the Ginsburg Board, but the Fahy Board and the Presidential Emergency Board as a floor or base from which to commence further negotiations, rather than accepting the recommendations; it that correct?

Mr. WOLFE. That is exactly right. That is my firm belief.

Mr. DEVINE. Trying to avoid the words "compulsory arbitration," which are obnoxious, I guess, to most everyone, are you going to make any specific recommendations to this committee on a corrective type of legislation rather than a one-shot deal such as we have here today? Then perhaps the Railroad Labor Act can prevent a recurrence of this situation so far as the committee is concerned.

Mr. WOLFE. We support the so-called Herlong bill, which is the finality bill. We also would support the Pickle bill. We firmly believe that certain amendments would make the Pickle bill more acceptable to all the parties. But there isn't any question that the Pickle bill is

well prepared. It was given a great deal of consideration by Congressman Pickle. Certainly, it is a step in the right direction. It may solve all the problem.

Mr. DEVINE. That, of course, is not pending before this committee today.

Finally, in your statement you suggested that the junior Senator from New York asked the question in the Senate committee of you, "Why won't you accept the Fahy recommendations?" and that question was asked both of the labor interests and the management interests.

I don't believe you gave us the answer other than you said that the labor people said, "No, definitely no." But they didn't say why? Did you say why?

Mr. WOLFE. No, they didn't tell us why, except that it wasn't enough money. That was obvious.

Mr. SPRINGER. Would the gentleman yield for one question?

Mr. DEVINE. Yes.

Mr. SPRINGER. I want to get this straight. This is offered in good faith. Down at the White House the Secretary did say that he thought the difference between the two parties was about 3 cents, the difference between 18 months and 2 years. I asked him this again on the stand the other day and he said he thought he was right. I think he believes this. I am sure he is intellectually honest and wouldn't intend anything else.

Do you understand that?

Mr. WOLFE. No, I think the Secretary made a mistake in that.

Mr. SPRINGER. From your testimony, as I see it, the difference is 6 percent for 1 year or 6 percent for 18 months, plus the job evaluation and escrow, and the difference between 6½ percent, 12½ cents, 5 percent and 12½ cents on top of that. That is a big difference, as I understand it.

Mr. WOLFE. That is correct.

Mr. SPRINGER. You aren't even close at all; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Some on this committee are under the understanding that it was only about 3 cents. I think this ought to be cleared up.

Mr. DEVINE. I have nothing further, Mr. Chairman.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. Mr. Wolfe, you said that the last bargaining session involving both sides was on April 2, 3 weeks ago today. What efforts have been made through representations to one side or the other by mediators, the Labor Department or anyone else, since April 25?

Mr. WOLFE. There have not been any to the best of my knowledge.

Mr. VAN DEERLIN. Are you unaware of representations to either side since the 25th, then?

Mr. WOLFE. I am not aware of anything since April 25 other than our frequent appearances before Congress, and things of that nature.

Mr. VAN DEERLIN. You are unaware that on April 29 representations purportedly were made to the brotherhoods in regard to an acceptance of a modified version of the Fahy recommendations?

Mr. WOLFE. I heard rumors that there had been some discussion, not with the people with whom we deal, but with someone in higher authority. But there was no formal discussion with us at all.

Mr. VAN DEERLIN. By "higher authority" do you mean within the brotherhoods or within the Labor Department?

Mr. WOLFE. I am not absolutely certain.

Mr. VAN DEERLIN. You were not consulted in regard to them?

Mr. WOLFE. No, I was not.

Mr. ADAMS. Will the gentleman yield?

Mr. VAN DEERLIN. I will be glad to yield to the gentleman.

Mr. ADAMS. Is it your testimony, Mr. Wolfe, that you know of no offer that has been made for mediation to railroad management after the meeting on April 25 which would involve a proposal of roughly 5 percent plus 5, 5, and 5 as recommended by the Fahy Panel? Is that your statement?

Mr. WOLFE. Let me clarify it to this extent: The only knowledge I have at all about anything like that was a call I received, a personal call, that there had been discussions with some top officers of AFL-CIO, and they were talking somewhere in that area. But there was no assurance given to me that it was acceptable to anyone.

Mr. ADAMS. What is your position?

Mr. WOLFE. My position is that anything that goes beyond the recommendations of the duly constituted Boards that have studied this would not be accepted to the railroads.

Mr. ADAMS. In other words, as far as you are concerned, bargaining, mediation, and everything else has stopped, and if the unions don't accept what the last Board—not even what the last Board stated, but your position on the last Board's recommendation, there is not going to be any further bargaining or mediation?

Mr. WOLFE. No. If anybody comes to us with any proposition to continue to bargain or anything else, we will talk about it.

Mr. ADAMS. Will the gentleman yield further?

Mr. VAN DEERLIN. Yes.

Mr. ADAMS. That is not what I understood you to say just now.

Mr. Reporter, would you read back what he said?

(The reporter read from his notes as requested.)

Mr. ADAMS. What is it?

Mr. WOLFE. That is exactly my position, my public position. But that doesn't mean I have contradicted myself because I have not. We will always discuss; we will always listen to propositions. Bargaining, collective bargaining, isn't done out in the public.

Mr. ADAMS. That is exactly the point, Mr. Wolfe, and we agree with that. But you brought this matter—by "you" I mean all of the parties to this—to the public, and the public interest is involved.

This is precisely the point that we have been making to the parties that are before us. Once you have done that, then the game, as you might refer to it—I would rather not—as the bargaining changes. That is precisely what we are thinking about, taking the lid off of this collective bargaining and finding out, as Mr. Springer has attempted to do, and the other members have, where the parties are, why it broke down, and why it hasn't been settled before we jump in and pass some overall legislation that will, as you point out, terminate this matter, but will, in effect, say we, the Congress, through a special board, are settling your dispute.

You can call it anything you want. It is compulsory arbitration.

Thank you, Mr. Van Deerlin.

The CHAIRMAN. Mr. Cunningham?

Mr. CUNNINGHAM. Mr. Wolfe, I asked this question of the Secretary of Labor, and I would like to have your response to it.

If there is a strike, sir, is there any power that you know of in the executive branch to do anything about the strike?

Mr. WOLFE. Mr. Cunningham, I am not a lawyer, but our lawyers have told us that there is no power now vested in the executive branch that yould solve our problem.

Mr. CUNNINGHAM. That, I believe, is what Mr. Wirtz has stated to be his position.

There is talk that if we do not pass this bill the Government may seize the railroads in the event of a strike. Perhaps I should ask our chairman. Does the Government have the law on its side for seizure?

The CHAIRMAN. Do you mean at the present time?

Mr. CUNNINGHAM. If there is a strike and the country is in an awful mess, without legislative action can the executive branch seize the railroads?

The CHAIRMAN. There is a disagreement about that. Some say yes and some say no. If it is put into this law, of course, they would have the right to seize.

Mr. CUNNINGHAM. I would be hopeful that they wouldn't. But I am wondering what is going to happen if there is a strike. What power does the Federal Government have in meeting it? That was the purpose of my question.

The CHAIRMAN. The committee has been served notice that we will not be able to sit this afternoon. We will have to ask you to return tomorrow morning.

I have one clarification before you leave.

I asked you a while ago if an offer had been made to the management after the 25th of April or after this last meeting, and mentioned the figures of 5 and 5 percent, and 5, 5, and 5 cents. I believe you said to me "No."

Mr. WOLFE. That is correct.

The CHAIRMAN. I believe in answer to Mr. Adams' question, you said someone called you and had a telephone conversation with you, relating this to you.

Mr. WOLFE. That is correct. Not the amounts. No amounts at all. It was simply that a discussion had been had with a very high officer of AFL–CIO, and there was a new area.

The CHAIRMAN. I might ask you this: Did this person who called you say that the unions had agreed to this?

Mr. WOLFE. No, sir; he did not. I have confirmed that.

The CHAIRMAN. We will have them here and I will ask them. This is a rumor going around and I would like to clarify it.

Mr. WOLFE. I would like to have it clarified because, Mr. Chairman, I particularly asked that individual after I had heard a question from you, I believe, as to that feature. I called him and asked him, "Had the unions bound themselves to it?" He said "Absolutely no."

The CHAIRMAN. Did they tentatively agree in any way that this would be acceptable?

Mr. WOLFE. No, not so far as I am concerned they did not.

The CHAIRMAN. That is one thing we can clarify when we get them here. It is a rumor. Certainly there is a great misunderstanding somewhere, by different groups of people. That is one of the big things of having all sides here so we can find out. But it has never been put to you as a proposition that was acceptable, as to whether you would take it or not?

Mr. WOLFE. No, sir.

Mr. PICKLE. Mr. Chairman, does the chairman have knowledge that an offer was made?

The CHAIRMAN. I am going to find out. I said there were rumors. We will get that when these men return.

Mr. PICKLE. The chairman must feel that there has been. Is the committee entitled to know?

The CHAIRMAN. Would you bear with me? I said the men are to be here before us and we will ask them. They are the ones who will speak.

The committee will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:05 p.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, May 17, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 17, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Yesterday when we adjourned, we had to answer a call to the floor. Mr. Cunningham was questioning at that time.

Mr. Cunningham?

Mr. CUNNINGHAM. I will yield the balance of my time to Mr. Springer.

Mr. SPRINGER. Thank you, Mr. Cunningham.

FURTHER STATEMENT OF JAMES E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE; ACCOMPANIED BY W. E. QUARLES, JR., VICE CHAIRMAN

Mr. SPRINGER. Mr. Wolfe, I didn't get through entirely yesterday, but you will recollect the trend of my questioning yesterday.

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. What I am trying to find out is this, in dollars and cents: Your offer was 5 percent and job evaluation; is that correct?

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. The offer, as I understand it, of the brotherhoods, is 6½ percent the first year plus 12½ cents. For 1968 it would be 5 percent and 12½ cents; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Those are the two relative offers, where you are, as of the present time. Is that your understanding?

Mr. WOLFE. With one thing that should be added, Mr. Springer; that is, the carriers are willing to make a down payment to correct the inequities——

Mr. SPRINGER. I have left out escrow.

Mr. WOLFE. Yes.

Mr. SPRINGER. With that in mind, what I am trying to find out is your offer of 5 percent is equal to how many millions of dollars, just roughly?

Mr. WOLFE. With this group, roughly $30 million.

Mr. SPRINGER. Now, let's take the 6½ percent, 12½ cents; 5 percent and 12½ cents. How much does that amount to in dollars and cents, roughly?

I am not asking the exact figure, but just the general neighborhood.

Mr. WOLFE. Somewhere around, roughly, $125 million.

Mr. SPRINGER. $125 million.

Mr. WOLFE. Please understand, Mr. Springer, that this is strictly a mental calculation, but I do not believe it would be too far off.

Mr. FRIEDEL. From 5 percent—will the gentleman yield?

Mr. SPRINGER. You want an explanation?

Mr. FRIEDEL. Five percent would be $30 million and 6½ percent would be $120 million?

Mr. WOLFE. No; the 5, 6½, and 25 cents per hour.

Mr. SPRINGER. When you say $30 million and then $125 million, is that per year?

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. If this were a 2-year period it would be $250 million; is that correct?

Mr. WOLFE. No, because the 6½ percent and the first 12½ cents an hour would be only during the year 1967.

Mr. SPRINGER. How much would that be? Could you give me another rough estimate as to what 6½ percent plus 12½ cents would be?

Mr. WOLFE. Somewhere around $70 million.

Mr. SPRINGER. It would be $70 million the first year and how much the second year?

Mr. WOLFE. $65 million. Of course, the $70 million would also be paid during the second year, too.

Mr. SPRINGER. The first year would be $70 million and the second year would be $130 million; is that correct?

Mr. WOLFE. Roughly, that is it.

Mr. SPRINGER. This comes, then, roughly, to $200 million for the 2-year period if it were 2 years; is that correct?

Mr. WOLFE. Yes.

Mr. SPRINGER. The second year would be at $60 million on the 6 percent?

Mr. WOLFE. Yes.

Mr. SPRINGER. Actually, it is $30 million as against $70 million, and the 2-year period is $60 million against $200 million; is that correct?

Mr. WOLFE. No, sir; $60 million as against $130 million.

Mr. SPRINGER. $60 million as against $130 million.

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. This is really, then, what you are talking about in terms of dollars and cents as the difference between what you and the brotherhoods are talking about?

Mr. WOLFE. Those are very rough figures, but I think it is in that neighborhood; yes, sir.

Mr. SPRINGER. If I have any time, I yield it back to my colleague.

The CHAIRMAN. I wouldn't want that to stand as a matter of record. You are talking about some money put into escrow. How much will you estimate that at?

Mr. WOLFE. I would not want to estimate it because it is a question of collective bargaining.

The CHAIRMAN. Certainly it is, and it might be more.

Mr. WOLFE. It might be more and it might be less.

The CHAIRMAN. I didn't want the record to stand that this was the only difference.

Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Wolfe, I read in today's press that the administration has turned down the railroads' request to be heard—well, not to be heard, but the idea of being heard on being able to ship military goods and things that affect the public safety and health.

From reading about the meeting, I understand that it was held at the Pentagon. I wondered if you were there.

Mr. WOLFE. No, sir; I was not. I was here.

Mr. MACDONALD. You weren't here all day, I don't think.

Mr. WOLFE. I understood that was a morning meeting.

Mr. MACDONALD. Do you know if anyone representing the railroads was there?

Mr. WOLFE. No; I do not. I do have what I think is a press release by Secretary of Transportation Alan Boyd. In the lower part of this page there is a list of people who were there.

Mr. MACDONALD. Does that list, as released by Mr. Boyd, include anybody from the railroads?

Mr. WOLFE. No, sir; it does not.

Mr. MACDONALD. Are you familiar with the telegram that was sent? I don't have a copy before me. I believe it was sent by the railroads to Secretary McNamara on the 28th of April, asking for such a meeting. It suggested the railroads be represented, since obviously they were a party in interest, and also, perhaps, a member or members from this committee and the interested committee in the other body.

Are you familiar with the telegram?

Mr. WOLFE. If you are referring to a Western Union telegram signed by Mr. Fox and Mr. Leighty, Mr. Fox is spokesman for the shopcraft unions and president of the Railway Employees Department, AFL–CIO; and Mr. George Leighty is president of the Railway Labor Executives Association. I am familiar with that Western Union message.

Mr. MACDONALD. That is a very complete answer.

I was wondering if you had any idea why the railroads were not invited. I don't know if perhaps this committee should be invited, but we are handed the ball to settle this dispute. You are a very able negotiator, I know of my own knowledge. I sat with you and members of the brotherhoods when you negotiated a bill which I introduced a year or so ago. I know you are a very good negotiator and have been the chief negotiator for the railroads.

It just strikes me as being very peculiar, indeed, that you or a representative of yours, or at least somebody representing the railroads, was not invited to what I think is a very vital meeting. Don't you find it a little peculiar that you were not invited?

Mr. WOLFE. Mr. Congressman, I think I would be presumptuous to either speak in favor of what transpired or to be critical, because I don't know. I would be singing entirely without my music, and I am not a good singer to start with.

Mr. MACDONALD. What I am trying to establish for the record, and I believe I know the answer but I am waiting for you to say it, was the fact that you were not invited. Were you?

Mr. WOLFE. To the best of my knowledge——

Mr. MACDONALD. Or anybody representing the railroads.

Mr. WOLFE. I have no knowledge except this: I was not invited. If I was, the invitation was lost in the mail.

Mr. MACDONALD. The administration is pretty good at following through on matters of that sort, I am sure you are aware. What really astounded me——

The CHAIRMAN. Will the gentleman yield?

Mr. MACDONALD. Yes.

The CHAIRMAN. I believe Mr. Boyd mentioned the statement. Maybe he was speaking for the railroads.

Mr. MACDONALD. Well, he is Secretary of Transportation, but I would hesitate to say that he speaks just for one side, although some of the testimony, I agree, Mr. Chairman, that he gave before us seemed to have him speaking only for the railroads.

He said that the offer—Mr. Boyd said—without any hearings, if this article is correct—and I was not invited, nor was anyone from this committee invited—or he is quoted as saying, and I am sure accurately, the relevant Government agencies had concluded that the offer, the offer to move military goods and goods affecting the public safety and health, "is not practical, feasible, or economical."

Is that his press release?

Mr. WOLFE. Yes.

Mr. MACDONALD. He is very good at putting out press releases. He put out a press release before he testified before this committee concerning testimony that he was going to give here. I will put this by way of a question:

What is impractical, unfeasible or uneconomical about having a meeting of all the people involved to discuss the matter?

Mr. WOLFE. Mr. Macdonald, you are going far beyond my field of knowledge.

Mr. MACDONALD. I am not going 1 inch beyond your field. You are the mediator representing all the railroads.

Mr. WOLFE. But I would not be in a position to say what is practical, feasible, or economical about having other Government people, such as members of this committee, present. I know nothing about that.

Mr. MACDONALD. Don't you think it would be practical, feasible, and economical to have members of the railroad industry invited to such a meeting?

Mr. WOLFE. There, again, Mr. Congressman, I think it would be wrong for me to express an opinion even if I had one, which I do not have. So far as the conclusion expressed in this press release as to what is practical, feasible, or economical in regard to the brotherhoods' proposal, I agree with that entirely and so testified yesterday.

Mr. MACDONALD. The point of my questioning if you, and it necessarily limited by time, is this committee is asked, on page 2 of the bill, "Whereas, the national interest, including national health and defense, requires the transportation services be maintained," et cetera, to solve this problem.

Why wouldn't it be a very good idea, indeed, to have the parties get together to determine what will be carried, what will not be carried, if, indeed, the brotherhoods say they will not handle certain material, and then we will know whether or not there is a national emergency?

Until such time as the brotherhoods have said what they won't carry, who are we, sitting on this committee, to say that there is a national emergency? How do you know there is going to be a national emergency if the brotherhoods carried goods that are essential to the military and for the national health and defense? I don't see where the national emergency occurs.

Mr. WOLFE. Is that a question?

Mr. MACDONALD. Yes.

Mr. WOLFE. As I understood your question, it was something like this: Who am I to say thus and so. Is that correct?

Mr. MACDONALD. Yes.

Mr. WOLFE. My testimony yesterday, which I believe supports the conclusions of the people from the executive branch of the Government as set forth in this press release, was based——

Mr. MACDONALD. That is Alan Boyd's press release?

Mr. WOLFE. Yes.

Mr. MACDONALD. You just held it up in your hand?

Mr. WOLFE. That is correct.

It is based on almost 50 years of railroad experience. It was 49 years on February 2. I have had some experience in almost every line of railroading, including switchman, yardmaster, and so forth.

I believe that I do have some knowledge of the difficulties, I might say the impossibilities, of some of those things. It was on the basis of that knowledge that I testified.

Mr. MACDONALD. I agree that it might be difficult, but it is not impossible. That is proven by a system of priorities that was worked out during World War II; isn't that correct?

Mr. WOLFE. No, sir; that is not correct. There were priorities during World War II, but everything that was offered the railroads to move; that is, all commodities, was handled. There were priorities on certain types of shipments. There were priorities on what we called main trains. Those were troop trains and military impediments, things of that nature.

Occasionally we had to run special trains on commodities of extreme emergency and urgency. Those things were handled. But when we made up a train in a yard, a freight train, of from 80 to 150 cars, all the traffic that had been offered that carrier was put in that train. It wasn't a question of singling out a car here, a car there, or a question of not moving empty cars and things of that nature.

Mr. MACDONALD. Mr. Chairman, Mr. Wolfe is a very careful witness and a very knowledgeable one. But he wasn't at the meeting. Since I feel personally that this meeting is of great importance to determine whether or not there is a national emergency, I would suggest or hope—I would ask, request—that Mr. Boyd be asked back to testify before the committee about this alleged meeting which, according to the press, had Mr. Leighty saying the administration people had already made up their minds that this was not a feasible thing, but they just held the meeting because we, here on the committee, had been pressing them to do so.

I would request that we get Mr. Boyd back so we can ask him about what did transpire.

The CHAIRMAN. If possible, we will do that.

Mr. Kuykendall?

Mr. KUYKENDALL. First, I want to go on record as saying that when both Houses of Congress have to spend untold hours listening to a great deal of very learned testimony and possibly have to pass an act of Congress as a result of the failure of collective bargaining, it is impractical, unfeasible, and certainly uneconomical.

We are here as a result of a failure. I don't think we are going to get completely clean, regardless. In fact, I wonder if we deserve it.

I would like to ask a couple of questions.

When did the bargaining actually begin? You had the chronology down yesterday. I am not talking about the notices, but when was the first meeting?

Mr. WOLFE. The first meetings were the meetings on the properties of the individual railroads. We represent roughly 200 railroads. The meetings were on varying dates. They were in July and August 1966.

Mr. KUYKENDALL. When did your group first meet?

Mr. WOLFE. Our first meeting, Mr. Kuykendall, began on September 28, 1966.

Mr. KUYKENDALL. This is, I think, a very important question: How much time has your group and representatives of labor on the corresponding, opposite numbers—how much time have these two groups spent in open bargaining without Government referees of one kind or another since the date of September 28, 1966?

Mr. WOLFE. There were a good number of days. I don't have the record with me as to exactly the number of hours or days, but we did meet on quite a number of occasions.

At the same time we were meeting with many other unions. We were meeting with the Brotherhood of Railroad Trainmen, with the Brotherhood of Railway Clerks, with the so-called Leighty group. That was maintenance of way, signalmen, dining car employees, telegraphers, and with other unions.

I would say we spent about as much time as we usually do in a national wage and fringe case.

Mr. KUYKENDALL. I have gotten the impression, in watching the progress of this whole case for several months—and I want you to comment on my comment, if you will—that it seems now for several months that these two parties were on a collision course and would collide right here in this room.

It seems we have been sitting waiting for you to be here for a long, long time. The overall purpose of my statement is as much to try to find out what has caused this as how we can prevent it in the future, how we can help write legislation.

Mr. Pickle is trying to do this now. He has written a bill that is up for consideration. I want to try to find out if you have the impression that you were almost destined to end up here for many months now in these negotiations?

Mr. WOLFE. No, sir. As I testified, it was our purpose, our sincere purpose, to try to dispose of all the demands we had before us from 24 unions in a peaceful way through the processes of collective bargaining.

I never did give up hope, although I realized that with this particular group our problem was difficult. But we did make agreements with 13 unions representing roughly 74 percent of all railroad employees, so even though we were not completely successful in what I thought

was a very worthwhile endeavor, in a climate that is not a good one in our country, I still think it was worth the effort, and there was never any thought on my part that we were not going to be completely successful.

Mr. KUYKENDALL. One last question: You mentioned yesterday the series, I believe you said over 30 years, of horizontal increases.

Mr. WOLFE. Yes, sir.

Mr. KUYKENDALL. Are these usually 2-year contracts?

Mr. WOLFE. No, sir. They vary. We have had quite a number of 1-year contracts, some 3 years.

Mr. KUYKENDALL. Let's say there have been probably 15 settlements over the 30 years; is that generally correct?

Mr. WOLFE. Yes.

Mr. KUYKENDALL. Have any of them been compulsory up to this moment on the subject of horizontal wage increases?

Mr. WOLFE. Compulsory?

Mr. KUYKENDALL. Compulsory settlements, such as is suggested in House Joint Resolution 559. Have any of these settlements in the past 30 years on wages in your industry been compulsory?

Mr. WOLFE. I think there was one during the Government seizure that the Government itself designed the wage increase.

Mr. KUYKENDALL. I believe you recognize yourself that these horizontal increases compounded the problem to the extent that we are in the bind we are in today.

Mr. WOLFE. Yes, sir.

Mr. KUYKENDALL. Why did you settle? It takes two to tango.

Mr. WOLFE. Yes; it takes two to tango.

You see, in the beginning of the across-the-board cents-per-hour increases, the so-called horizontal, was 1937. Our country had not yet come out of the worst depression in its history.

There is every reason to try to make agreements without the threats of strike and all of the unpleasant things that go with them. The unions wanted across-the-board cents per hour increases and we agreed. That was the first increase.

Then in 1941, just before Pearl Harbor, we had demands for wage increases, fringe benefits and so forth. Senator Morse, by the way, was the Chairman of the Emergency Board at that time.

By the way, we were not actually in war but we had for some time been preparing for war. Perhaps for all practical purposes we were at war.

The unions at that time were thinking a great deal about dealing more with the underpaid. I don't mean underpaid in its literal sense, but the lower paid. It was a cents-per-hour increase.

In 1962, I believe it was, and I can be corrected on the date, we had an Emergency Board that did recommend 5 cents an hour and an additional 2½ percent. In its findings the Emergency Board made it clear that that was to help widen the margin between the unskilled and the skilled, and if future wage increases would be on a percentage basis in time the compression would be relieved.

But the shop craft organizations at that time, as they had for many years, were a part of the bargaining team of all the nonoperating unions. The shopcrafts did not bargain by themselves until 1964.

From 1937 throughout they were with the 11 and up to 14 so-called cooperating, nonoperating unions.

When we came to settle on the basis of that Emergency Board report, again the unions demanded that 2½ percent be converted into a cents-per-hour increase to be spread across the board equally to all employees. I resisted right up to the point where it looked as if we were going to break off.

Finally, I said, "Well, we will convert the 2½ percent, but the agreement must contain a provision that the carriers agreed to this at the insistence of the unions, and only because it became positive that we could not make an agreement any other way."

Mr. Congressman, I think that is a very strong indication of our recognition of the problem, our effort to dispose of it on the same basis that it was created, over a reasonable period of years. But the unions would not agree to it and the record is absolutely clear on it.

Mr. KUYKENDALL. Let me ask one last question.

Here is what I am trying to develop: Looking back, and they say we can all be very philosophical in retrospect—and this is for the purpose of trying to find information—do you have any regrets now that you just didn't stand firm, period, and say, OK, strike. This has to be done, we have to look forward, we have to take the sensible approach of eliminating this series of horizontal increases.

Do you regret that maybe you didn't go ahead and say, OK, we can't reach agreement. Go ahead and strike and we will settle it right now.

Mr. WOLFE. No; I have no regrets, for the reason that part of the time we were at war, and then we were going through the acute period of adjustment following the war. Then we had the Korean disturbance.

It seems that since 1937 and up to now we have always had problems that just would not permit a national strike of the railroads.

And let me say this to you: I have been criticized by Members of Congress for failure to make agreements. I don't know what they would have done to me if I had come in here on the basis that this Nation was faced with a national catastrophe and my only defense was that I wouldn't agree to an across-the-board increase.

I can assure you, sir, from past experience, that the treatment that I would have received would have been something less than pleasant.

Mr. KUYKENDALL. Thank you, Mr. Chairman.

Mr. SPRINGER. Will the gentleman yield?

Mr. KUYKENDALL. I believe my time has expired.

The CHAIRMAN. Mr. Jarman.

Mr. PICKLE. Mr. Chairman, a point of order.

Is it the intent of the Chair to go down the line of the members by seniority this morning? We stopped yesterday with Mr. Cunningham and you resumed with Mr. Cunningham. I notice he starts again at the head. What is the procedure?

The CHAIRMAN. I am going to get to those who did not ask questions yesterday.

Mr. Jarman.

Mr. JARMAN. I think the particular question that I would have would be with reference to whether you are in a position now to make any statement on recommendations that you might favor for permanent legislation that would be a solution to this problem.

You mentioned in your testimony that you will not oppose the proposal of the President in this case, but you have indicated that you feel that more permanent legislation is needed.

Are you in a position to advise the committee on your thinking on what permanent legislation should be?

Mr. WOLFE. Yes, Congressman Jarman.

Mr. JARMAN. Let me also add that I am aware that in your testimony you indicated support of the Herlong bill. Is that correct?

Mr. WOLFE. Yes; I did.

I believe that the Herlong bill is workable. I believe that it will inspire more sincere collective bargaining rather than defeat the purposes of collective bargaining.

It has been my experience that where there is a terminal end and where the negotiators know that if they do not negotiate, do not make agreements, that someone is going to look at the record and make agreements for them, that they will negotiate sincerely and they will make agreements where now they pass the buck to someone else.

I have studied the bill that was introduced by Congressman Pickle. I commented on that very briefly yesterday.

Mr. JARMAN. And you indicated support for the Pickle bill with certain amendments.

Mr. WOLFE. Yes. I believe after very careful study of that bill that it is one of the best prepared bills I have ever had the pleasure of reading. There is no question but what most profound thought was given to the bill during the preparation. There is no question in my mind but what it protects the equities of the parties, and that if tried it will prove my assertion regarding the protection of the continuance of true, sincere, good-faih collective bargaining.

It will certainly be greatly improved if Congress should decide to give favorable consideration to that bill.

Mr. JARMAN. Are you in a position to submit to the committee your recommendation of amendments that you feel should be made to the Pickle bill to make it an acceptable solution?

Mr. WOLFE. Yes; I think we would be.

There are certain things in the bill that we believe would be objectionable to the unions. There is one thing that I think might provoke opposition from other sources, and that is the Pickle bill—and I say that with the greatest respect for Congressman Pickle—gives the President great discretion in selecting the weapon from the so-called arsenal of weapons which he would elect to use.

A discretion carries with it great responsibility. We think that the selection of the weapon to be used would be better if it were put in the hands of a standing comimttee such as the Secretary of Commerce, the Secretary of Defense, the Secretary of Transportation—I hope it is all right to mention the Secretary of Transportation at this time—the Chairman of the Interstate Commerce Commisison, and perhaps the Chairman of the Civil Aeronautics Board.

That would remove it from the political arena. It would divide the responsibilities. I think to a great extent it would relieve the situation of political pressures that might be present. I wish to say now that I hope, I sincerely hope, that you do not think I am presumptious by trying to answer you to the very best of my ability.

Mr. JARMAN. Thank you very much.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

Are you by chance, sir, familiar with the so-called Bonner bill of 3 years ago? Mr. Bonner was chairman of the Merchant Marine and Fisheries Committee and he filed a bill providing for settlement of disputes in the shipping industry.

Mr. WOLFE. I am familiar with the bill, sir, but not sufficiently to discuss it intelligently. I did see it. I heard it discussed some years ago. I do not have a sufficient recollection of it to discuss it.

Mr. KEITH. I would appreciate it if you could discuss this informally with me, comparing it to the Pickle approach to see if there couldn't be some contribution made from that to this particular approach.

Mr. WOLFE. I would be very happy to do the best I can.

Mr. SPRINGER. Would the gentlemen yield?

Mr. KEITH. Yes.

Mr. SPRINGER. I want to see if I can reduce this or compress it further so that we can understand, Mr. Wolfe. I want to get your side on the record.

I read from the second Special Panel appointed by the President these words on page 3 of this mimeographed sheet:

> Indeed, it is our considered judgment that if the duration and the size of the general wage rate increase expressed in percentage terms could be resolved, the amount of adjustment to correct the wage inequity could readily be solved. Our mediation has, of course, concerned issues in dispute as a whole, but the most intractable problem now concerns the duration of the agreement and the amount of the general wage increase.

Is that your belief?

Mr. WOLFE. I believe the general wage increase has been a serious problem. It still is.

I believe the duration is a problem.

But I do not agree that there isn't a very serious problem still in existence in regard to the correction of inequities.

Mr. SPRINGER. So then you disagree with the second Board, at least I take it that you do. You agree with them in two parts but you add one further reservation which you believe is in dispute and it is serious.

Mr. WOLFE. Yes, sir; I do.

Mr. SPRINGER. First, the duration of the agreement. That is one thing. The amount of the general wage increase is the second. And you think there is also a third, a serious difference in the adjustment of inequities.

Mr. WOLFE. Yes, sir; I do.

Mr. SPRINGER. I thank the distinguished gentleman from Massachusetts.

Mr. KEITH. No further questions, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Moss.

Will the gentleman yield?

Mr. MOSS. I would be very happy to yield, Mr. Chairman.

The CHAIRMAN. I would like to briefly ask the witness, Mr. Wolfe, if he would briefly give your understanding of the collective bargaining.